

CENTRAL BEDFORDSHIRE COUNCIL

Record of a **LICENSING SUB-COMMITTEE** hearing convened under The Licensing Act 2003 (Hearings) Regulations 2005 and held in Room 14, Priory House, Monks Walk, Shefford on Tuesday, 5 May 2015

1. **Licensing Sub-Committee Composition**

Cllrs: R D Berry
D Bowater
I Dalgarno

2. **Election of Chairman**

Councillor I Dalgarno was elected Chairman for the meeting.

3. **Apologies for Absence**

There were no apologies for absence.

4. **Members' Interests**

There were no declarations of interest.

5. **Name of Applicant**

For The Queen's Head:

TQH Ampthill Ltd.

For The White Hart:

Punch Taverns plc.

6. **Premises Address**

For The Queen's Head:

20 Woburn Street, Ampthill, Bedfordshire, MK45 2HP.

For The White Hart:

125 Dunstable Street, Ampthill, Bedfordshire, MK45 2NG.

7. **Name of Parties (including the premises user, observers and persons who have made any relevant representations together with any persons representing each party)**

Parties in Attendance Throughout:

Cllr R D Berry (Central Bedfordshire Council)
Cllr D Bowater (Central Bedfordshire Council)
Cllr I Dalgarno (Central Bedfordshire Council)

Mrs M Bissett – Licensing Officer (Central Bedfordshire Council)
Mr L Manning – Committee Services Officer (Central Bedfordshire Council)

Mrs E Nee – Licensing Officer (Mid County) (Bedfordshire Police)

Cllr M Blair – Ward Member (Central Bedfordshire Council)
Cllr P Duckett – Ward Member (Central Bedfordshire Council)
Amphill resident 1 (name withheld on request)
Amphill resident 2 (name withheld on request)

Parties Present for The Queen’s Head only:

Mrs E Bradbury – Legal Executive (Central Bedfordshire Council)

Ms Karen Elkins - Commercial Services Co-ordinator (Charles Wells Ltd)
Mr F Fender - Applicant (TQH Amphill Ltd)
Mrs K Hammond - Wife of Designated Premises Supervisor (The Queen’s Head)
Mr R Hammond - Designated Premises Supervisor (The Queen’s Head)

Parties Present for The White Hart only:

Mrs L McShane – Legal Services Manager – Commercial (Central Bedfordshire Council)

Mr A Ford – Operations Director (Oakman Inns and Restaurants)
Mr J Searle – Partnership Development Manager (Punch Taverns plc)
Mr P Warne – Associate Solicitor (TLT LLP)

Observer Present for The White Hart only:

Mrs D Sutherns – Town Clerk (Amphill Town Council)

8. **Names of Parties submitting representations and indications of their representations**

For The Queen’s Head:

Representations had been received from 14 persons (names withheld) to the variation of the premises licence to extend the hours for the sale of alcohol, recorded music, late night refreshment and opening hours at The Queen’s

Head, 20 Woburn Street, Ampthill, Bedfordshire, MK45 2HP on the grounds that it would undermine the following Licensing Objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance.

For The White Hart:

Representations had been received from 11 persons (names withheld) to the variation of the premises licence to extend the hours for the sale of alcohol and late night refreshment and amend current licensing conditions at The White Hart, 125 Dunstable Road, Ampthill, Bedfordshire, MK45 2NG on the grounds that it would undermine the following Licensing Objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance.

9. Procedure for the Hearing of Applications under the Licensing Act 2003

The procedure for the hearing of applications made under the Licensing Act 2003 was noted.

10. The Four Licensing Objectives

The four Licensing Objectives were noted.

11. Application for the Variation of a Premises Licence under The Licensing Act 2003 at The Queens Head, 20 Woburn Street, Ampthill, Beds

The Chairman welcomed the attendees to the meeting. He then introduced himself, the members of the Sub-Committee and the officers present.

The Chairman explained the meeting procedure.

The Licensing Officer then introduced a report by the Head of Public Protection which asked Members to determine an application from TQH Ampthill Ltd to vary the premises licence for The Queen's Head, 20 Woburn Street, Ampthill, Beds.

There were no questions by the Sub-Committee in relation to the report and no points by the Licensing Officer requiring clarification. The Applicant had no questions relating to the officer's report.

The Applicant then set out the nature of the propose variation to the premises licence which would see an extension in both opening hours and some of the licensable activity allowed on the site. The Applicant provided a description of

the premises, referred to the five year length of service by the current Designated Premises Supervisor (DPS) and stated that the average age of the pub's patrons was approximately 50, with some younger persons who were attracted by the safe atmosphere and sociability found there.

The Applicant explained that the application had been made because some regular patrons left before the pub's current closing time of 11.00 p.m. to enjoy late drinking elsewhere. By extending the opening hours these patrons could remain. He added that although representations against the application had been received none had been forthcoming from any Responsible Authority such as the Police or Environmental Health. Further, many of those making representations did so with regard to the application for the variation of the premises licence for the nearby White Hart and not specifically for The Queen's Head

The Applicant stated that he had taken full account of the representations, especially those from Councillor Blair, and suggested various additional conditions which could be introduced to meet residents' concerns.

The Applicant stressed that the issue of noise was taken extremely seriously given that the DPS and his wife had an eight year old daughter and they had no wish to see her affected by this. However, he also reminded the Sub-Committee that, under the Licensing Act 2003, the responsibility for a person's behaviour beyond the immediate area surrounding the premises lay with the individual and not the DPS. The Council had no vicinity policy in place and the law was not a mechanism for the control of anti-social activity. He concluded by stating that he was confident that the proposed variation to the premises licence would not cause undue concerns for local residents.

There were no questions from the Sub-Committee.

No Responsible Authorities wished to speak on this application.

The Chairman invited any Interested Parties present to speak. In response a local resident stated that The Queen's Head lay within a residential area not an area of mixed use and there were houses occupied by families around the pub. She also stated that, contrary to what had been claimed, there were existing issues relating to fighting, noise and underage drinking. She referred in particular to noise disturbance arising from music, especially in the summer when the pub's windows were open. Further, there was no noise containment and the problem was made worse by the presence of benches to the front of the pub which were used by patrons. She referred to the information/evidence contained in the letters of representation which had been submitted by other local residents.

The local resident stated that she believed the landlord did not wish to cause difficulties but she was concerned that the pub could gain a difficult reputation as it attracted a different type of customer. She feared the actions of some customers would remain unpoliced as the landlord would be too occupied serving his patrons to monitor and control what was happening outside the pub.

The Applicant had no questions. He stressed that there was a mechanism for review if the conditions imposed on the operation of the pub were not followed.

Other Interested Parties were asked to comment. A second local resident stated that the previous interested party had made the salient points. She emphasised the disturbance that would be caused by the arrival of new drinkers and the late night departure of patrons. Further, longer hours would encourage a culture of drinking. A fine balance currently existed which local residents accepted but they were concerned that this balance would be upset should the proposal be approved.

The Sub-Committee had no questions.

The Applicant queried whether local residents had only experienced issues with The White Hart in the past. In response the local resident stated that problems had also been experienced with The Queen's Head.

The two ward Members in attendance were then invited to comment. The first Member stated that The Queen's Head had felt it necessary to apply for the variation because other premises, such as the No 4 Bar and Grill, had a late licence. He also acknowledged that some pubs within Ampthill were losing customers and that The Queen's Head was a local pub trying to retain its patrons. He added, however, that the Sub-Committee's decision would effectively decide the Council's licensing policy towards the town centre. The ward Member then reminded the meeting that the area was residential in nature with adults and children living nearby. He referred to the major noise disturbance to local residents that would be caused, although he did not believe this would be generated by taxi use as customers left the pub. He expressed his concern that there would be a return to the problems which had previously existed as a result of late night drinking.

The second ward Member referred to the presence of various restaurants, pubs, clubs and a hotel within residential areas of Ampthill and the mostly positive relationship that existed between them and local people. However, he then referred to the brevity of the officer's report regarding the application for The Queen's Head and stated that, contrary to what was stated within the report, the locality around The Queen's Head was not an area of mixed residential and business use but was almost totally residential in nature. He also referred to the concerns already expressed by local residents that, following the reduction in noise and disturbance as a result of the closure of The White Hart in 2013 and the absence of a pub or club open after midnight, noise nuisance and anti-social behaviour were now increasing again as a result of the late opening hours awarded to a town centre bar. He was pleased that The Queen's Head had taken action to redress the concerns that had been expressed and he did not believe that the pub wished to add to the problems experienced with some drinkers but, instead, had been driven to act by concern at the loss of its customers. Nonetheless, the late availability of alcohol coupled with the availability of outside seating required control. He therefore urged the Sub-Committee not to approve the application for the sake of both local residents and the pub itself.

There were no questions from either the Sub-Committee or the Applicant. The Applicant suggested no further conditions for adoption.

The Chairman invited closing submissions from the applicant and interested parties.

In response the Applicant said that much the content of the representations received was not related to The Queen's Head. However, any concerns that did apply to the pub had been taken seriously and, as far as possible, action had been taken to meet these. He added that a mechanism existed if any further action was felt necessary.

The two Ampthill residents stated that intoxicated patrons would not take notice of any signs that were erected asking them to behave responsibly and the pub itself required more staff to monitor any conditions that were imposed. The first ward Member concurred with the importance of sufficient staff to monitor behaviour outside the pub.

The Applicant concluded by stating that he was fully aware that any conditions imposed by the Sub-Committee would need to be managed and it was the job of the licensee to do so.

The Sub-Committee adjourned to make its decision in private. All attendees left the meeting room with the exception of the members of the Sub-Committee and the Legal Executive who remained with Members to advise as necessary. The hearing reconvened when the Sub-Committee had finished its deliberations and could announce its decision.

On behalf the Sub-Committee the Chairman announced the following:

Findings of Fact

- No objections or representations were made by the Responsible Authorities
- No evidence had been produced in support of the objections made to the application.

Decision

That, following consideration of the information before it, the Sub-Committee decided that the application for a variation to the premises licence should be granted as set out in the application and subject to the following additional conditions:

- 1 No entry to the premises after 23.00 hours;
- 2 Outside areas to be closed to drinkers and smokers at 23.00 hours;
- 3 Windows and doors will be closed at 23.00 hours and when regulated entertainment is taking place;
- 4 Notices will be posted in the outside area and to the exit to the premises asking customers to respect neighbours and leave quietly.

In coming to its decision the Sub-Committee took into account the following:

- The Licensing Act 2003 (Section 18)
- The Secretary of State's Revised Guidance issued under Section 182 of the Licensing Act 2003 in October 2014
- Central Bedfordshire Council's Statement of Licensing Policy
- The merits of the application and the representations received.

Reasons for the Decision

The reason for the Sub-Committee's decision was as follows:

- Prevention of Public Nuisance.

Irrelevant Representations

The Sub-Committee determined that there were no representations that were considered irrelevant.

Right of Appeal

The Legal Executive informed the hearing that if the Applicant was dissatisfied with this decision or the imposition of any condition or restriction he had the right of appeal to the Magistrates Court within 21 days of the date on which he was notified of the decision.

The Chairman took the opportunity to remind all parties that the police or others could ask for a review of the premises licence because of a matter arising at the premises with regard to any of the four Licensing Objectives.

The Chairman also reminded all parties that a failure to comply with the licence conditions was a criminal offence and was subject to an unlimited fine or six months in prison or both.

12. Application for the Variation of a Premises Licence under The Licensing Act 2003 at The White Hart, 125 Dunstable Street, Ampthill, Beds

The Chairman welcomed the attendees to the meeting. He then introduced himself, the members of the Sub-Committee and the officers present.

The Chairman explained the meeting procedure.

The Licensing Officer then introduced a report by the Head of Public Protection which asked Members to determine an application from Punch Taverns plc to vary the premises licence for The White Hart, 125 Dunstable Street, Ampthill, Beds.

There were no questions by the Sub-Committee in relation to the report and no points by the Licensing Officer requiring clarification. The Applicant's solicitor had no questions relating to the officer's report.

The Applicant's solicitor introduced the application for consideration. He reminded the meeting that in 2013 the premises licence for The White Hart had been reviewed following ongoing problems arising from the late night operation of the pub at that time. The solicitor stated that he felt the Council's decision to amend the premises licence to prevent late night operations and restrict certain activities had been correct. The tenancy had subsequently been terminated by Punch Taverns and the premises closed. He stressed that Punch Taverns, as the landlord, had not supported the previous tenant's actions.

The Applicant's solicitor then stated that the premises had been closed for approximately two years at a cost in lost revenue of £300,000 and a further cost of £20,000 to secure the premises. Although Punch Taverns could have appointed temporary tenants the company wanted a 'cooling off' period and the ability to appoint new tenants who would represent how much The White Hart had changed.

The Applicant's solicitor then briefly described the nature of the proposed variation as set out within Appendix B to the officer's report. He added that the application did not include an attempt to vary the hours of regulated entertainment although a further application could be submitted in the future if there was a proven need.

The Applicant's solicitor referred to the information supplied through Oakman Inns and Restaurants relating to the development of The White Hart as a pub, restaurant and hotel and of Oakman's approach to the development of its properties. He drew Members' attention to the shortlisting of the company in three categories in the Publican Awards 2015. The Applicant's solicitor also referred to the successful development of the Kings Arms in Berkhamsted, a similar premises to that as The White Hart, which operated on approximately the same basis as that proposed for The White Hart. He stated that the development of The White Hart was an example of the commitment of Punch Taverns and Oakmans and their willingness to invest in Ampthill.

The Applicant's solicitor stated that there would be occasional functions and these would not be held every week. The bar was the first stage of the premises' development and would be community focused. The hotel element fell within the second stage. He stated that the proposed extension to the opening hours was an attempt to retain patrons at The White Hart so they did not have to leave to continue drinking elsewhere rather than an attempt to encourage new customers to continue their drinking at The White Hart.

The Applicant's solicitor referred to the residents' meeting which had been held the previous week and how the Applicant had given consideration to what could and could not be done. Within the representations received there had been general support for reopening The White Hart but there had also been concerns relating to the impact on Ampthill and the possibility of the pub reverting back to its previous poor standards. The Applicant's solicitor also referred to the large numbers of supporters for the proposal both in person and

on social media. As an example of commitment to the locality he informed the Sub-Committee that the new Designated Premises Supervisor (DPS) had purchased a home in Ampthill and her partner was a chef at the restaurant.

There were no questions from the Sub-Committee.

Any Interested Parties present were asked if they wished to speak. In response a local resident referred to how, previously, late licenses had led to crime and noise. However, the Applicant was now stating that late drinking was business critical despite there being no evidence in support of this claim. She commented that what was certain was that the more drink that was sold the more profits were made and the more drunken behaviour there was. She stated, furthermore, that the company had a history of misconduct and that the grant of a late licence for The White Hart would attract and concentrate drinkers from other pubs at the premises.

The local resident stated that, however well managed the pub was internally, the noise generated by the pub would travel externally. She referred to a report which had originally been submitted to the Licensing Sub-Committee held on 22 January 2013. The report was by the Council's Technical Officer in the Public Protection Team and a copy had been attached as an appendix to a letter from an objector to the current application. The local resident drew the meeting's attention to the officer's reference to the excessive noise levels and the disturbance caused to those living in the area. The local resident reminded the Sub-Committee of the decision by The Hide in Woburn Street not to serve alcohol beyond 11.00 p.m. because it recognised the negative implications of late drinking. The local resident also referred to the proposed removal of existing conditions regarding the closing of doors and windows despite these being good noise prevention measures.

With regard to the development of The King's Arms in Berkhamsted the local resident commented that Berkhamstead was a bigger town with a more commercial high street.

The local resident next referred to the movement generated by the use of the outside overflow bar and the smoking area, both of which would generate noise which would impact on Dunstable Street and Woburn Street. She urged that the Sub-Committee refuse the application because of the late night disturbance that would be caused.

Discussion followed on late night entertainment and access to, and use of, the second bar. In response the Applicant's solicitor stated that there would only be regulated entertainment for events and not permanently. He emphasised that there was no intention to return to the poor standards experienced under the previous tenant and the Applicant had a genuine obligation to mitigate any negative impact on the local community. Despite this, however, the local resident reiterated that noise emanating from the garden/courtyard area would not only impact on Dunstable Street but would also be funnelled up Woburn Street.

The Applicant's solicitor stated that he understood the concern regarding noise emanating from the garden/courtyard area but stated that the licence holder

would ensure patrons were inside the pub from 11.00 p.m. with the exception of smokers in the smoking area. The Chairman suggested an additional condition requiring the closure of the garden area from 11.00 p.m. apart from the designated smoking area.

The Applicant's solicitor stated that the courtyard area was part of the designated smoking area and would have to remain available. Given its mixed use the Chairman queried how the Applicant could meet the obligations proposed whilst retaining a designated smoking area. In response the Applicant's solicitor suggested that, after 11.00 p.m., patrons could not take drinks outside.

The Chairman referred to the absence of comments on the application from any Responsible Authority and expressed concern at this given the history of the premises.

A ward Member stated that he had been pleased on hearing that Oakman's was to take over the running of The White Hart as the building was a wasted asset and a local landmark despite its recent history. However, he warned of the late night drinking culture in Ampthill which had the aim of drinking as much for as long as possible. He then referred to the content of the report of the Head of Public Protection parts of which he felt to be misleading. In particular he referred to the statement that there was 'some residential property' within the nearby surroundings to the pub when there were actually 78 houses and flats with 150 residents within 100 metres of the premises and this represented a density higher than most housing estates. He commented that contrary to the claim within the report that the nearest 'on' licensed premises were over 100 metres from the premises he stated that both The Hide and the No 4 Bar and Grill were between 30-40 metres away and The Queen's Head no more than 100 metres distant.

The ward Member went on to comment that a period of calm had existed in the town centre following the closure of The White Hart and the absence of other premises operating after midnight. However, the problems associated with late night drinking were now reoccurring because late night opening had been permitted at other premises.

Whilst the ward Member acknowledged that Oakman's would introduce measures to prevent problems reoccurring he felt that, however well intentioned, there would still be trouble as a result of late night drinking. As a result ordinary patrons would be discouraged by the anti-social behaviour of other customers and Oakman's reputation would suffer as a result. He added that he had no objection to residents of the proposed White Hart hotel taking advantage of later drinking hours.

In response to a question from the Chairman regarding the opening of a hotel within The White Hart the Operations Director for Oakman Inns and Restaurants replied that work was being undertaken to replace and upgrade fittings and furniture in the building but that, at the moment, the premises provided a short term live-in facility for staff. However, should trade go well and demand existed then hotel accommodation would be quickly introduced. He added that there was no set timescale for this.

The second ward Member then spoke on the application. He reminded the meeting of the how The White Hart had deteriorated rapidly under the previous landlord. The ward Member then stated that all pubs traded well in Amptill and demand for alcohol was such that Waitrose, the local supermarket, had expanded its product range to meet this. Whilst he welcomed the proposals he was concerned that there would be a rapid decline in the situation with the queuing of taxis down Dunstable Street, general noise generation and traffic disturbance.

The ward Member stated that the Applicant was entering into an area that would surprise him with its high level of demand for alcoholic drinks. He asked the Sub-Committee to examine the introduction of age restrictions and the closing of the barrier gates outside the premises to minimise noise as these acted as an attraction to young people. He concluded by stating his concern that late drinking would have a detrimental impact on both local residents and businesses. In response the Applicant's solicitor explained that the barrier gates had been removed.

There were no other representations from Interested Parties.

The Chairman asked if the Applicant wished to modify or withdraw the application in any way. In response the Applicant's solicitor stressed that the ability to provide late night refreshment was business critical and this had been based on previous experience. However, he stated that, as an operational promise and even if not strictly required, windows and doors would be shut for the periods of regulated entertainment. He acknowledged that other premises had similar late night refreshment hours and he was aware of the difficulties that had arisen. However, he commented that the prices to be charged for alcoholic drinks would be set at such a level that they would be too expensive to encourage binge drinking. With regard to the possible introduction of age restrictions he explained that to do so would have a detrimental effect because the aim was to encourage families to return to The White Hart and confirm its status as a community pub.

The Applicant's solicitor referred to various factors which he felt the Sub-Committee should consider in determining the application whilst, at the same time, stressing that the new White Hart would be operated as a community business and should problems arise then they would be managed. He emphasised that the pub would not be a destination for young people and would not encourage the migration of drinkers from other establishments to engage in late night drinking.

The Applicant's solicitor stressed that changes to operational practices could be implemented if necessary. Further, a formal review of the Licence could be undertaken if this was felt to be required.

A local resident commented that the premises was already allowed to operate but just not as late as it wished. She raised the problem of noise generated by patrons relocating from the main to the cellar bar as well as that produced from customers at other external points. She commented that late drinking hours would serve to attract customers to travel to the pub and the higher price

charged for alcohol would still be cheaper than, for example, hiring a taxi to travel to a late night venue in Bedford.

The local resident commented that there were no age restrictions so it appeared that families would be present in the bar area until 1.00 a.m. She added that it was not only the noise generated by drinkers but also that of the taxis that would deliver them to, and collect them from, the pub.

In response the Applicant's solicitor stated that consideration could be given to introducing a last entry time

The ward Members summarised their position.

The Sub-Committee adjourned to make its decision in private. All attendees left the meeting room with the exception of the members of the Sub-Committee and the Legal Services Manager – Commercial who remained with Members in the meeting room to advise as necessary. The hearing reconvened when the Sub-Committee had finished its deliberations and could announce its decision.

On behalf the Sub-Committee the Chairman announced the following:

Findings of Fact

- No objections or representations were made by the Responsible Authorities
- No evidence had been produced in support of the objections made to the application because the premises had been closed for two years.

Decision

That, following consideration of the information before it, the Sub-Committee decided that the application for a variation to the premises licence should be granted as set out in the application and subject to the following additional conditions:

- 5 No admission after 24.00 hours (midnight) on Thursday, Friday and Saturday;
- 6 The garden/courtyard area to be closed after 23.00 hours.

In coming to its decision the Sub-Committee took into account the following:

- The Licensing Act 2003 (Section 18)
- The Secretary of State's Revised Guidance issued under Section 182 of the Licensing Act 2003 in October 2014
- Central Bedfordshire Council's Statement of Licensing Policy
- The merits of the application and the representations received.

Reasons for the Decision

The reason for the Sub-Committee's decision was as follows:

- Prevention of Public Nuisance.

Irrelevant Representations

The Sub-Committee determined that there were no representations that were considered irrelevant.

Right of Appeal

The Legal Services Manager – Commercial informed the hearing that if the Applicant was dissatisfied with this decision or the imposition of any condition or restriction he had the right of appeal to the Magistrates Court within 21 days of the date on which he was notified of the decision.

The Chairman took the opportunity to remind all parties that the police or others could ask for a review of the premises licence because of a matter arising at the premises with regard to any of the four Licensing Objectives.

The Chairman also reminded all parties that a failure to comply with the licence conditions was a criminal offence and was subject to an unlimited fine or six months in prison or both.

(Note: The meeting commenced at 10.00 a.m. and concluded at 12.50 p.m.)