

## **BABERGH DISTRICT COUNCIL**

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held as a Virtual Teams Meeting on Thursday, 12 November 2020 at 10:00 a.m.

### **PRESENT:**

Councillor: Mark Newman (Chair)  
Sue Carpendale  
Peter Beer

### **In attendance:**

Officers: Licensing Officer (DP)  
Assistant Manager – Food, Safety and Licensing (ER)  
Legal Advisor (DS)  
Governance Support Officer (KS)

### **Apologies:**

None.

#### **1 WELCOME - LEGAL ADVISOR TO THE SUB-COMMITTEE**

The Legal Advisor to the Sub-Committee, David Smithet gave a brief welcome and stated the reason for the hearing. The Legal Advisor advised the procedure to be followed and outlined the domestic arrangements.

#### **2 ELECTION OF CHAIRMAN FOR HEARING**

The Legal Advisor confirmed that Councillor Newman, Chairman of the Licensing and Regulatory Committee would chair the hearing.

The Chair welcomed everyone to the meeting.

#### **3 DECLARATION OF INTERESTS BY COUNCILLORS**

Councillor Beer declared that he took part in the planning process when planning permission was granted for the premises.

#### **4 B/LA/SUB/20/1 LICENSING ACT 2003: REVIEW OF PREMISES LICENCE BPL0463 - CAFFEINE LOUNGE, 14 BOREHAMGATE SHOPPING CENTRE, SUDBURY**

The Chairman asked the Sub-Committee Members and officers in attendance at the meeting to introduce themselves.

The Chairman asked the Applicant (Trevor Cresswell - Leader of the Borehamgate Gt Eastern Road Residents Association) and Other Persons (Mr Dorrington) to introduce themselves.

The Chairman asked the Premises Licence Holder's representative (David Dadds – Dadds Solicitors) to introduce himself, he then asked Mr Dadds to confirm that he had received copies of all the relevant representations. This was confirmed.

The Chairman asked the Responsible Authority representatives to introduce themselves:

Suffolk Constabulary – Sharon Betts-Palmer  
Environmental Protection – Chris Cornish  
Planning Enforcement – Simon Bailey

Mr Dadds asked for clarification of who was in attendance on behalf of the Responsible Authorities and who were being called as witnesses. The Licensing Officer confirmed that requests to call witnesses had been received from the Responsible Authorities and provided the information to the meeting:

Suffolk Constabulary – Robert Farrow and Oliver Williams  
Environmental Protection – James Buckingham and Les King

The Suffolk Constabulary representative, Sharon Betts-Palmer advised the meeting that Robert Farrow was unable to attend, and that Oliver Williams was available to assist with any questions regarding the Sudbury area.

The Applicant, Trevor Cresswell advised that his son (Tom Cresswell) was unable to attend and asked if he could read out a statement on his behalf.

Mr Dadds asked for confirmation that Tom Cresswell had made his representation within the prescribed timescale. The Licensing Officer confirmed that Tom Cresswell was part of the Residents Association and therefore permitted to speak.

Mr Dadds referred to Hearing Regulation 8 regarding notice of witnesses attending hearings. He stated that he should have had advance notice of all witnesses attending the hearing and copies of their witness statements. He also questioned the membership of the Residents Association and whether it had a constitution.

The Environmental Protection representative, Chris Cornish clarified that himself, James Buckingham and Les King submitted their representation as the Environmental Protection team and that they would all be available to speak.

Mr Dadds requested further clarity on who would be making representations. The meeting was adjourned between 10.45am and 11.30am for legal advice regarding the points made by Mr Dadds.

The Legal Advisor, Mr Smithet advised the meeting regarding the Licensing Act 2003, Hearing Regulations 8 and 22. He advised that an Attendance at Hearing form had been completed by Trevor Cresswell, the form included Tom Cresswell and that he had indicated that he intended to speak at the hearing but was unable to do so due to work commitments.

Mr Smithet advised the meeting that the Sub-Committee had agreed that Tom Cresswell's statement could not be reasonably withheld and therefore it could be read out by Trevor Cresswell, however it would be read out as a hearsay statement and that the Sub-Committee would determine the appropriate weight to give it in their deliberations taking into account all the circumstances. Mr Smithet also advised that the Sub-Committee had agreed that it was appropriate for them to consider all available evidence, in fairness to all parties, that it had at its disposal at the hearing.

Mr Dadds responded that the Sub-Committee should only hear evidence from interested parties who had made relevant representations within 28 days and that he considered that Tom Cresswell had not met this requirement. He asked for confirmation that advance notice had been received that Tom Cresswell was a witness for the Residents Association.

The Chairman asked whether any party to the Hearing wished to withdraw either their application or their representation. It was confirmed that they did not.

The Chairman asked the Licensing Officer whether there had been any requests from the parties to call witnesses. The Licensing Officer confirmed that requests to call witnesses had been received and provided the information to the meeting:

Tom Cresswell for the Applicant  
Oliver Williams for Suffolk Constabulary  
James Buckingham and Les King for Environmental Protection

The Sub-Committee confirmed they were happy with all the requests to call witnesses.

Mr Dadds advised that the Premises Licence Holder, William Ward and his father were with him virtually and that he was representing them, and they would be able to answer any questions he needed assistance with.

The Chairman asked the Licensing Officer whether any of the parties had indicated they wished to present documentary (or other) material. The Licensing Officer confirmed that all supporting information had been submitted prior to the hearing date and accepted by the Licensing Sub-Committee, he also confirmed that there had been no requests to submit further supporting information today.

The Chairman asked the Applicant to estimate the time required to present their case. The Applicant replied approximately 6-7 minutes.

The Chairman asked the Premises Licence Holder's representative to estimate the time required to present their case. The Premises License Holder's representative replied approximately 2 hours.

The Chairman asked each of the Responsible Authorities to estimate the time required to present their case:

Suffolk Constabulary replied approximately 20 minutes, Environmental Protection replied approximately 10 minutes and Planning Enforcement representative replied a couple of minutes.

The Chairman asked the Licensing Officer to present his report.

The Licensing Officer introduced Paper B/LaSub/20/1 to enable the determination of a Review application made under section 51 of the Licensing Act 2003 by Borehamgate Gt Eastern Road Residents Association in respect of Caffeine Lounge, 14 Borehamgate Shopping Centre, Sudbury CO10 2EG.

At the conclusion of the Licensing Officer's report, the Chairman asked each of the parties to the hearing in turn if they had any questions for the Licensing Officer.

The Licensing Officer answered questions from the Sub-Committee regarding his report and confirmed that Babergh DC is the owner of Borehamgate Precinct.

The Chairman asked the Applicant to present his case.

The Applicant, Trevor Cresswell presented his case to the hearing and read out a statement from Tom Cresswell.

Mr Dadds objected to the statement as it contained additional information not included in the representation in the report.

The Chairman and Legal Advisor asked the Applicant not to add to the information included in the representation.

Mr Cresswell confirmed that he was prepared to withdraw information not included in the representation.

At the conclusion of the Applicant's case, the Chairman asked each of the parties to the hearing in turn if they had any questions for Mr Cresswell.

The Applicant answered questions from the Sub-Committee on his representation including: the fake CCTV camera, video footage, photos submitted, his relationship and interactions with the premises licence holder, the premises doors and precinct gates, noise issues and the effect on his quality of life.

The Applicant answered a question from the Environmental Protection Officer regarding noise issues when the premises doors are closed.

The meeting was adjourned between 12:45pm and 13:23pm.

The Applicant answered questions from the Premises Licence Holder's representative on his representation including: his noise complaint to Environmental Protection, details of the Borehamgate Gt Eastern Road Residents Association, noise in the precinct when the doors and gates are closed, noise in Gt Eastern Road and the effect on his sleep.

Mr Dadds proceeded to question the Applicant on an incident detailed in the Police CAD reports. At this point the Sub-Committee resolved to exclude the public and to continue in private session.

**5 EXCLUSION OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)**

**It was RESOLVED:**

**That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for item 6 on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 of the Act, on the grounds set out in Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005.**

**6 B/LA/SUB/20/1 LICENSING ACT 2003: REVIEW OF PREMISES LICENCE BPL0463 - CAFFEINE LOUNGE (CONTINUED)**

The Premises Licence Holder's representative, Mr Dadds continued to question the Applicant on his representation compared with the incidents detailed in the Police CAD reports.

At the conclusion of the questions from the Premises Licence Holder's representative, the Sub-Committee voted to re-admit the public.

**7 RE-ADMITTANCE OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)**

**It was RESOLVED:**

**That under Section 100A(4) of the Local Government Act 1972, the public be re-admitted to the meeting.**

**8 B/LA/SUB/20/1 LICENSING ACT 2003: REVIEW OF PREMISES LICENCE BPL0463 - CAFFEINE LOUNGE (CONTINUED)**

The Chairman asked each of the Responsible Authorities if they had any questions for the Applicant.

The Environmental Protection representative, Mr Cornish asked the Applicant to confirm that he had been advised of the correct procedure to follow for his nuisance complaints. Mr Cresswell confirmed that he had.

At the conclusion of the questions for the Applicant, the Sub-Committee resolved to exclude the public and to continue in private session.

**9 EXCLUSION OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)**

**It was RESOLVED:**

**That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for item 10 on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 of the Act, on the grounds set out in Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005.**

**10 B/LA/SUB/20/1 LICENSING ACT 2003: REVIEW OF PREMISES LICENCE BPL0463 - CAFFEINE LOUNGE (CONTINUED)**

The Chairman asked the Premises Licence Holder's representative to present his case.

The Premises Licence Holder's representative, Mr Dadds presented his case to the hearing.

The meeting was adjourned between 3:25pm and 3:35pm.

At the conclusion of the Premises Licence Holder's case, the Chairman asked each of the parties to the hearing in turn if they had any questions for Mr Dadds.

The Premises Licence Holder's representative answered a question from the Applicant about the crime rate in Gt Eastern Road before the premises opened.

The Premises Licence Holder's representative answered a question from the Suffolk Constabulary representative relating to international gaming competitions held at the premises and how many happened after 11pm at night.

The Premises Licence Holder's representative answered a question from the Environmental Protection representative relating to the proposal to have door staff at the premises and the primary use of the premises, also regarding meetings between Environmental Health and his client in February and March 2020 and further correspondence in August and September 2020.

At this point the Sub-Committee agreed to an adjournment as the Planning Enforcement Officer needed to leave the meeting due to childcare commitments.

The meeting adjourned at 4:45pm to be reconvened on 20<sup>th</sup> November 2020 at 9:30am.

The business of the meeting was concluded at 4.45 pm.

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Chair