

**EAST STAFFORDSHIRE BOROUGH COUNCIL**  
**LICENSING ACT SUB-COMMITTEE**

Minutes of the Meeting of the Licensing Act Sub-Committee held a virtual environment on Thursday 19<sup>th</sup> November 2020 at 10.00am.

**Present:**

Councillors S Gaskin (Chairman), H Hall and C Wileman.

**Officers Present:**

Mrs A Wakefield (Solicitor); Mrs Monica Henchcliffe (Senior Democratic Services Officer) and Mrs H Farman-McKenna (Licensing Officer).

45/20 **DECLARATIONS OF INTEREST**

There were no declarations of interest at the commencement of the meeting.

46/20 **APPOINTMENT OF CHAIRMAN**

**Resolved:**

That Councillor S Gaskin be appointed Chairman for this meeting.

47/20 **URGENT BUSINESS**

There was no urgent business brought forward to the Licensing Act Sub-Committee pursuant to Rule 12.

48/20 **APPLICATION FOR THE REVIEW OF A PREMISES LICENCE – MIDDLE BELL, 33 MAIN STREET, BARTON UNDER NEEDWOOD, BURTON UPON TRENT, STAFFORDSHIRE DE13 8AA**

(HoS) The report of Mark Rizk (Head of Service), regarding an application for the review of a premises licence was considered.

Present at the meeting were:

Mr Sean Severn, the applicant.

Mrs Karen Cochrane (Flint Bishop Solicitors), representing Punch Partnership (PTL) Limited, accompanied by Mr Derek Moore (Heineken Business Development Manager representing the Premises Licence Holder).

Mrs Sue Burton (local resident), Mr Ian Jackson (local resident) and Mr Ed Sharkey (Barton Parish Councillor), speaking in support of the application.

Mrs Margaret Woolley (Enforcement Manager) and Mr Martyn Manning (Environmental Health Officer).

The sub-committee heard oral evidence from the following:

Mrs Helen Farman-McKenna (Licensing Officer)

Mr S Severn (The applicant)

Mr M Manning (Environmental Health Officer)

Mrs S Burton (supporting the application)

Mr I Jackson (supporting the application)

Mr E Sharkey (supporting the application)

Mrs K Cochrane (Flint Bishop Solicitors)

Mr D Moore (Business Development Manager representing the Premises Licence Holder)

**Resolved:**

The hearing was convened in order to consider an application for the review of the premises licence at the Middle Bell, Barton under Needwood. The applicant was a local resident, Mr Sean Severn, who spoke at the hearing; and submissions in support of the application were also heard from local residents, Mr Ian Jackson and Mrs Susan Burton; and from Mr Edward Sharkey, also a local resident, on behalf of Barton under Needwood Parish Council. The premises licence holder was represented by Mrs Karen Cochrane of Flint Bishop Solicitors and she was accompanied by Mr Derek Moore, Heineken Business Development Manager.

The applicant and the other local residents spoke eloquently of the impact upon them of noise and disturbance emanating from the pub (including the areas immediately outside the pub) late at night, particularly at weekends. Mr Severn spoke of his failed attempts, over a prolonged period of time, to have any engagement with the former manager and the owner of the pub. He described a 4 to 6 week period during which he was woken constantly on Friday and Saturday nights and said that the level of disturbance had left him "sick and tired", "fed up" and at "breaking point".

Mr Jackson's complaint related specifically to a failure to enforce the condition of the licence prohibiting open drinking vessels in the pub's outside area after 11pm. He told Members that this condition had been breached on numerous occasions, highlighting one in particular, when he said that more than 30 people were drinking outside the pub at midnight. He also described the level of noise outside the pub late at night – people shouting, car doors slamming, car engines revving loudly, taxi drivers sounding their car horns – all of which he said often occurred at or after 1.00 a.m.

Mrs Burton said that the noise could be heard inside her home and spoke of people urinating in her garden and of finding beer glasses in her garden on many occasions. She said that the issues were particularly bad over the summer months, to the extent that she tried to be away as much as possible over that time.

Mr Sharkey described wider problems in the village, citing the example of anti-social behaviour in Collinson Park. He commented that a badly run pub was not an asset to the community and highlighted the importance of the Middle Bell being run by someone with respect for the rights of people in the community. He mentioned the incoming tenants, the Derby Brewing Company, and expressed the hope that under their management the Middle Bell would be a family friendly establishment.

Mrs Cochrane explained that the previous tenant was in place for a relatively short time, from December 2019 until October 2020, with the pub not trading between March 2020 and July 2020 because of the lockdown imposed in response to the Covid-19 pandemic. She said that she understood the previous tenant may dispute some of what had been said at the hearing but acknowledged too that the former tenant was not present to make those representations. She pointed out that general issues of crime and disorder were not relevant for the purposes of the current application unless those could be positively linked to the Middle Bell by evidence establishing that causal link. Mrs Cochrane remarked that it was unusual for a review not to be brought by a Responsible Authority and that the Police were the experts in matters of crime and disorder. She said that, in her experience, Staffordshire Police took a very proactive approach to tackling problems arising at licenced premises, but

that they had not been in contact with her firm to raise any concerns over the Middle Bell. Mrs Cochrane told Members that there had been considerable changes in circumstances since the review was brought and she accepted that the previous tenant was not a good fit. She said that a well-run pub was what everybody wanted and told Members that she was confident that this would now be the case, citing the new tenant's track record in running their other premises, in Staffordshire and Derbyshire, in support of her argument. She said that the past confusion over communication was now resolved; she and Mr Severn had already begun a dialogue which she wished to continue; and that anyone with an issue concerning the Middle Bell was welcome to contact her and/or Mr Moore at any point. She also said that she wished to ensure that the new operator was not punished for past failings and that to that end she was asking Members to give the new operator a chance. Mrs Cochrane stated that the premises licence was fit for purpose: it contained sensible conditions with which a decent operator would comply and she argued that a decent operator was now taking over the running of the Middle Bell. She also told Members that the new operator would draft a new noise management plan, which she would be happy to share with residents.

The Members retired to consider their determination.

In reaching their decision, the Members did not take into account the wider incidence of anti-social behaviour elsewhere in Barton under Needwood, on the basis that they lacked evidence to link this with the Middle Bell. They also rejected the invitation to alter the Middle Bell's hours of operation in order to make those consistent with other venues in and around the village. They noted that Staffordshire Police had neither made representations on this application, nor had they sought a review on their own behalf. The Members had regard to Mrs Cochrane's account of the incoming tenant's track record as a decent operator with a history of running successful, problem-free, pubs elsewhere in the region. At the same time, the Members attached weight to the residents' description of the impact of noise nuisance late into the night on Fridays and Saturdays. The Members were prepared to accept Mrs Cochrane's confidence in the incoming operator's abilities to run the Middle Bell well, ensuring that it would be an asset to the community. At the same time, the Members accepted that the noise attributable to and associated with patrons leaving the premises in the early hours of the morning caused unacceptable disturbance to local residents, to the extent that this undermined the prevention of public nuisance licensing objective.

For that reason, the Sub-Committee determined that the premise licence should be varied in the following respects:

1. A new noise management plan be implemented (the noise management plan to be agreed with ESBC's Environmental Health Team).
2. On Fridays and Saturdays the licensable activities currently listed on the premises licence be permitted until 12.00 a.m.
3. The opening of the premises to 12.30 a.m. on Friday and Saturday.
4. The later hours for pre-booked functions be removed from sections E,F, I and J of the premises licence.

**Chairman**