

## **Decision of Felwood Borough Council**

### **Application for variation of premises licence for The Rose Pub and Restaurant, Kellaway Avenue, Elstead.**

#### **GRANTED WITH CONDITIONS AND REDUCED HOURS**

- 1 The Sub-Committee considered an application for a variation of the premises licence to allow live and recorded music and dancing until 0100 hrs with alcohol on Friday and Saturday nights.
- 2 The Sub-Committee heard from the Applicant, Police, Environmental Health and from 2 local residents, namely Mr. Blakely and Miss Jones.
- 3 The Sub-Committee considered that the licensing objectives of the prevention of crime and disorder, and the prevention of public nuisance were engaged. It also considered the national guidance and the Council's Licensing Policy.
- 4 The Sub-Committee considered the area of the premises to be predominantly residential but noted that it was not far from the high street containing a mix of commercial and residential premises.
- 5 The Sub-Committee noted the history, and that there was a level of crime and disorder and noise disturbance associated with its operation. However, the Sub-Committee did not consider that the frequency of these incidents greatly exceeded what might be expected from any licensed premises serving alcohol. The Sub-Committee also noted that these incidents occurred before Mr. Fitzsimmon took over the running of the premises.
- 6 The Sub-Committee considered the recent incidents of disorder and noise disturbance at the premises this year. The Sub-Committee considered that the incidents on 20 January and 3 March 2017 could have been handled better by the management but that incidents of this nature do unfortunately occur on licensed premises from time to time.
- 7 As for the recent incidents of noise disturbance this year, it was noted that these had not been verified by Environmental Health. Those which were made in March were made after residents had become aware of the application to extend the hours, and the Sub-Committee took into account that residents might be more sensitive than normal to noise during this period. A pub had been in this location for a number of years and a degree of noise caused by its operation could be expected.
- 8 Despite concerns raised in the past, there had been no review of the premises licence and one warning letter. There had been no further intervention by the responsible authorities.
- 9 The evidence from the objectors, that Mr. Fitzsimmon had brought about an improvement at the premises was noted. He remained the licensee and DPS of the premises and was

ultimately accountable for any issues which arose. The legislation did not require the DPS to be present at the premises at all times.

- 10 The Sub-Committee took into account the applicant's intention to provide a platform for local live bands with some music and dancing. The Sub-Committee did not consider that this would turn the premises into a nightclub and that the hours sought were consistent with a late night bar, somewhere between the hours for a bar and nightclub under the Council's core hours (Policy 3).
- 11 Having regard to all of these matters, and seeking to achieve an appropriate balance between the extension of hours sought and the impact it would have on this predominantly residential area, the Sub-Committee had regard to its core hours policy 3 and noted that the hours sought were somewhere between pub hours and nightclub hours. In the light of the representations made, and in particular with regard to the history of noise and disturbance and recent similar complaints under the current management, the Sub-Committee considered that an extension of 1 hour on Fridays and Saturdays to midnight for amplified live and recorded music and alcohol sales was appropriate, and would promote the licensing objectives.
- 12 In addition, the Sub-Committee considered that the concerns raised about the application to extend the hours could be met by appropriately worded conditions and that, with these conditions in place, the licensing objectives would be promoted:
  - (1) Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
  - (2) Doors and windows to the premises will be kept closed, so far as is practicable, from 2100hrs each night when noise generating regulated entertainment is taking place until the premises are closed.
  - (3) The licensee shall appoint a noise consultant registered with the Institute of Acoustics or Association of Noise Consultants to prepare a scheme of noise control measures, which will include the installation of a noise limiting device, to prevent persons in the neighbourhood from being unreasonably disturbed by noise of music from the premises. The scheme shall be submitted for written approval by the Council prior to the premises being used for regulated entertainment for the first time after 2300hrs. The approved scheme shall be fully implemented in accordance with the approved scheme of noise control measures.
  - (4) The entertainment noise control system including the noise limiting device referred to in (3) above shall be monitored, checked, and calibrated as necessary, so that the levels approved by the Council are not exceeded.
  - (5) The controls for the entertainment noise control system, including the noise limiting device, shall be located in a secure, lockable cupboard or similar location. The entertainment noise control system is to be independent of control by persons other than the licensee. Access to the entertainment noise control system is to be restricted to the Licensee or a designated manager.
  - (6) The contact telephone number for the designated premises supervisor shall be displayed inside the premises or immediately outside the premises such that it is clearly visible from outside without the need to enter the premises.
  - (7) When noise generating regulated entertainment is due to take place on Fridays or Saturdays, the premises shall employ a member of staff to patrol the car park from 2200hrs

to provide a visible presence and to encourage customers to keep noise and disturbance to a minimum.

- (8) The external smoking area to the rear of the premises shall not be used after 2300hrs on any day. On Fridays and Saturdays when the premises are open beyond 2300hrs, smokers will be requested to smoke outside the front of the premises.
  
- 13 The Sub-Committee considered that the above conditions were proportionate and appropriate given the extended hours granted, the capacity of the premises (115 including staff), the location of the premises, and the representations objections made.
  
- 14 On the above basis, the Sub-Committee was prepared to grant a limited extension of the premises licence, mindful of the fact that if any issues arose as a result of the operation of the premises, residents and responsible authorities would be able to bring a review of the premises licence which would bring the whole licence back before the Sub-Committee.
  
- 15 The parties are hereby notified that they may appeal against this decision to the magistrates' court within 21 days beginning with the date of notification of this decision.