

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING SUB-COMMITTEE**

**TUESDAY, 6TH DECEMBER 2022, AT 11.25 A.M.**

PRESENT: Councillors A. B. L. English, C.A. Hotham and A. D. Kriss

Also in attendance: Councillor H. Rone-Clarke, Ward Councillor, PC A. Stanley and PC K. Norris, West Mercia Police, Mr. S. & Mrs. R. Tapp and Mr. D. Hopkinson, local residents, Mr. P. Robson, John-Gaunt & Partners, legal representative for the premises, Mr. J. Matheson, DPS, Mr. W. Garrett, Area Manager, Mr. C. Deacon, Regional Operations Manager, Marston's PLC, Mr. P. Rogers, Acoustic Expert, Sustainable Acoustics and Mr. D. Butterworth, Licensing and Security Compliance Consultant (via Microsoft Teams)

Officers: Mrs. V. Brown, Mr. T. Phelan, Mrs. P. Ross and Mr. G. Day

28/22

**ELECTION OF CHAIRMAN FOR THE MEETING**

**RESOLVED** that Councillor A. B. L. English be appointed Chairman of the Sub-Committee for the meeting.

29/22

**APOLOGIES**

Apologies for absence was received from Councillors P. J. Whittaker and R. J. Deeming, Reserve Member, with Councillor A. D. Kriss present as the substitute Member.

30/22

**DECLARATIONS OF INTEREST**

It was noted that all Members present at the meeting declared Other Disclosable Interests in Agenda Item number 5 – Application for the Review of a Premises Licence in respect of the Golden Lion, Austin Road, Bromsgrove, Worcestershire, B60 3PB; in that they were all aware that the Applicant for the Review, was a District Councillor; and that the Application had not been discussed with the District Councillor.

Councillor A. D. Kriss asked for it to be noted that, as a party to other proceedings, that he knew the Applicant's Licensing Consultant, Mr. D. Butterworth, as a party to those proceedings with regard to another Licensing Sub-Committee case.

31/22

**APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF THE GOLDEN LION, AUSTIN ROAD, BROMSGROVE, WORCESTERSHIRE, B60 3PB**

Prior to the commencement of the Hearing and in agreement with all parties to the proceedings, a copy of the Licensed Area for the premises, was provided to all those present.

The Chairman then welcomed everyone to the Hearing and asked all parties present to provide a brief introduction.

The Chairman asked all parties to the proceedings if they were satisfied with the Hearing procedures to be followed. It was noted that any variation to the Hearing procedures would be at the discretion of the Chairman.

The Chairman noted that the premises licence holder was legally represented.

The Sub-Committee then considered the review of a Premises Licence in respect of the Golden Lion, Austin Road, Bromsgrove, Worcestershire. The review of the premises licence had been submitted by Councillor H. D. Rone-Clarke, Ward Councillor.

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) presented his report and in doing so explained that the premises had been called in for review by the Ward Councillor, Councillor H. D. Rone-Clarke, as detailed at Appendix 1, to the report. Representations had also been received in support of the review from West Mercia Police, as one of the Responsible Authorities, as detailed at Appendix 3 to the report. As noted on page 5 of the main agenda report, copies of the crime reports, incident logs and a summary of complaints received in respect of the premises; were provided to all parties to the proceedings.

In response to a question from Mrs. Tapp with regard to Environmental Health (EH), WRS being notified of the review. The Technical Officer (Licensing) confirmed that all of the Responsible Authorities had been notified and that a reply had only been received from West Mercia Police.

Further representations in support of the review were also received from 'Other Persons,' as detailed at Appendix 4 to the report.

The Technical Officer (Licensing) also highlighted that representations had been received from 'Other Persons' in support of the premises licence holder; as detailed at Appendix 5 to the report.

Members' attention was drawn to the existing Premises Licence, as detailed at Appendix 2 to the report.

The basis of the review being on the following licencing objectives: -

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from Harm

The full details for the grounds for review were shown on pages 12 to 14 of the main agenda report.

As highlighted in the Officer's report, the Police were in support of the review, as detailed on pages 33 to 35 of the main agenda report. West Mercia Police were seeking addition conditions to be added to the Premises Licence, as detailed on page 35 of the main agenda report.

At the invitation of the Chairman, Councillor H. Rone-Clarke, Ward Councillor addressed the Sub-Committee.

Councillor Rone-Clarke stated that nearby residents had been subjected to unacceptable and unreasonable constant intrusions from noise, more so during the summer months; despite a number of meetings between residents and the licensees, Marston's. The information received from the Premises Licence Holders legal representative did not provide a full picture.

The noise omitted from the premises was monitored on four separate occasions during October 2018, with a Noise Abatement Order being issued. The Premises Licence Holder did make some changes after being required to do so.

The report from the Premises Licence holder's legal representative referred to noise monitoring taking place, by Sustainable Acoustics Ltd between 19<sup>th</sup> and 28<sup>th</sup> October 2022.

Noise nuisance monitoring taking place during October 2022, when no-one would be sat outside due to the weather and restrictions after 9:00 p.m., would be very different to the noise nuisance experienced by nearby residents during the summer months.

Councillor Rone-Clarke further highlighted that it was impossible to state that there were no noise issues after 11:00 p.m. due to the minor variation, which prohibited the consumption of food and alcohol outside after 21:00 hours. No-one was taking a head count of the number of customers inside the premises in order to ensure that there were no customers outside after 21:00 hours.

Councillor Rone-Clarke referred to the aerial photo he had supplied which showed the close proximity of the premises to residential properties, as detailed on page 20 of the main agenda report.

The Crime Map referred to by the Premises Licence holder's legal representative, highlighted that some crimes were committed within the

vicinity of the Co-op location. The statistics provided did not take into account crime reports associated with the Golden Lion that were reported but were not attended to by the police. The incidents at the Co-op location could be from customers of the Golden Lion.

Councillor Rone-Clarke informed the Sub-Committee that he had been actively involved with residents and the premises, as Ward Member, since 2018. He had initially held off applying for a review of the premises licence but had now accepted that the residents could not take much more.

He had been in touch with the Regional Manager since July 2020 with nothing really happening following meetings and contact made with the Regional Manager.

He had hoped that EH, WRS would go into the history of noise issues from the premises. He accepted that voluntary conditions had been accepted by the premises, however there were still noise nuisance issues; and he had received complaints from residents that children were still outside the premises after 10:00 p.m.

The EH Officer, WRS, who had liaised with residents and the premises, had said that the noise outside of the premises was still causing a problem with people eating and drinking outside after 21:00 hours. They had suggested closing the doors at 21:00 hours in order to stop customers accessing the outside area.

Councillor Rone-Clarke commented that the Brewery acted upon the number of complaints received. He had received and informed the premises of the number of noise nuisance complaints he had received during the spring / summer months. Noise which had continued late into the night whereby residents were unable to use their gardens or keep their windows open during the hot weather. Residents could not be expected to start at square one again or be expected to allow any recourse if the issues continued.

Councillor Rone-Clarke drew Members' attention to the 'Suggested Specific Licence Amendments To Protect Residents From Public Nuisance,' as detailed on page 47 of the main agenda report.

Councillor Rone-Clarke reiterated that in order to be clear, he wanted the pub to thrive and to be a community hub and to continue to do charity work. He acknowledged the photographs on his Facebook pages of him attending a charity event at the premises. However, the quality of life for nearby residents was paramount, they should have sanctuary in their homes.

In response to the Sub-Committee with regard to a Noise Abatement Order being issued. Councillor Rone-Clarke replied that he recorded it being served but he did not have any further information for Sub-Committee Members.

In response to the Chairman, the Technical Officer (Licensing) stated that no representations or information had been received from EH, WRS, as a Responsible Authority.

In further response, Mrs Tapp stated that the Noise Abatement Order was served on 18<sup>th</sup> October 2021. The Noise Abatement Order was served on the previous landlord / Designated Premises Supervisor (DPS) who was 'booted out' then Mr. Joshua Matheson (DPS) was taken on at the premises. Five lots of EH noise monitoring equipment was installed in different homes.

At the invitation of the Chairman, PC A. Stanley, Licensing Officer, West Mercia Police addressed the Sub-Committee.

PC Stanley referred to the representation submitted in support of the review application, as detailed on pages 33 to 35 of the main agenda report.

PC Stanley stated that West Mercia Police had 66 Incident reports dating back to when monitoring had commenced in 2006. PC Stanley further referred to incidents from 2018 to 2022, as detailed on pages 33 to 34 of the main agenda report.

PC Stanley drew Members' attention to a meeting that had taken place on 10/11/2021, the attendees and the variation to the licensing conditions as agreed at that meeting; as detailed on pages 34 and 35 of the main agenda report.

PC Stanley also drew Members' attention to a further follow up meeting that had taken place on 17/2/2022, as detailed on page 35 of the main agenda report.

PC Stanley further highlighted that the police had recently met with representatives from Marston's PLC and their solicitor; whereby it was agreed that the licensable activities hours would be reduced.

The Police in their representation had requested door supervisions from 8:00 p.m. on Friday and Saturdays, this condition was then varied during the Sub-Committee Hearing as follows: -

"That the police and 'other authorities' would be, upon 2 weeks' notice, able to require door supervisors".

PC Stanley highlighted that there had been very little interest or reason for the police to visit the premises since the new DPS, Mr. J. Matheson had taken over. Nothing had come to their attention since then.

In response to the Chairman, PC Stanley clarified that the reduced hours, as agreed at the recent meeting referred to in the preamble above, was to close the premises at 23:30 hours, with no alcohol to be

sold after 23:00 hours. The police had also suggested that on a Friday / Saturday to close the premises at 00:30 hours with no alcohol being sold after midnight.

In response to the Sub-Committee, Mr P. Robson, the legal representative for the premises, clarified that the recent meeting as referred to by PC Stanley, had taken place on 21<sup>st</sup> October 2022.

PC Stanley further confirmed that Mr. Matheson had also attended the meeting.

Members raised a number of questions with regard to how the noise nuisance would be reduced and the agreed temporary / voluntary conditions on the revised Premises Licence.

The Technical Officer (Licensing) clarified that the agreed temporary conditions had been added to the Premises Licence as a minor variation and would remain as permanent on the revised Premises Licence.

Members continued to question as to how the reduction in hours would tackle the noise nuisance issues. Some of the temporary conditions had improved things for residents but certain aspects were not being addressed.

PC Stanley stated the police did not always attend when there was a noise nuisance issues, they usually attended in cases of Anti-Social Behaviour (ASB) or Disorder.

Following further questions from Members with regards to the temporary conditions and what was advised at the recent meeting held on 21<sup>st</sup> October 2022. PC Stanley highlighted that the front of the pub area was being used by passers-by and that Marston's needed to look at this and the potential for installing barriers (wooden fencing) on the premises. There had been issues around ASB with people sat outside the pub. A reduction in hours would reduce fighting, physical violence and ASB. PC Stanley clarified that there were currently no barriers.

At the invitation of the Chairman, Mrs. R. Tapp, Mr. S. Tapp and Mr. D. Hopkinson addressed the Sub-Committee also in support of the review application.

Mr. Hopkinson stated that the stress experienced was not just from resident's who had bought a house nearby a pub and had then complained. He had purchased his property in 1989. However, during the summer of 2018 he had felt the need to complain about the noise. The pub before 2018 did not have a regular source of entertainment, it was a community pub.

The speakers at the back of the pub and discos on a more regular basis had caused ASB and the level of ASB had become intolerable. There was a constant barrage of shouting and extreme foul language and

threats among customers. Grown adults were climbing trees. There had been an incident after 9:20 p.m. whereby an adult and child were arguing and screaming. The premises was approximately 40 metres from the rear of the pub to his property. If ASB was still ongoing after a long period of time, in the Town Centre, it would not be tolerated.

Mr. Hopkinson continued and further highlighted that music from the premises could be heard in his lounge (June 2022) the thump, thump of the base was unbearable. During the summer months there were more discos. The last two years a TV had been installed outside of the premises, with permanent seating on the back wall of the pub and more tables and benches had been placed in the garden area; which had had a significant impact on his property. He was too embarrassed to invite people around because of the noise and extreme foul language from a minority of customers who became rowdy and caused ASB.

In August 2018, he had raised the noise issues with WRS and was in regular contact with Marston's; who had had plenty of opportunities to put things right but had failed to do so. Residents were at the end of their tether and now needed formal conditions in place, as noise nuisance had continued for over four years now.

Mrs. Tapp addressed the Sub-Committee and in doing so, stressed that the current licence, with regard to The Prevention of Public Nuisance, was being breached. Farrow Close was right on the boundary of the pub, some 22 metres from the front door of the pub. Music and people on the car park making a noise can be heard late at night. Mrs. Tapp stated that she supported the pub and accepted that there would be periods of disturbance. However, she had lived in her property for 22 years and the noise nuisance had increased since the introduction of '24 hour' licencing hours.

With the indoor smoking ban, more customers are using the outside area which had increased the level of noise. The internal dividing wall in the premises, that was installed in order to protect residents from noise, had been removed therefore adding to the noise nuisance experienced by residents.

Mrs. Tapp continued and informed the Sub-Committee Members that she had raised complaints since 2007, 2012/13 about the level of noise from music at the premises. Despite complaining the music did not stop and since 2018 had gotten worse, with music being played longer at night. You could hear screaming and whooping until 02:00 a.m., which was far worse on entertainment nights. The noise disturbance could be heard inside her property. Every time there was entertainment the DPS had argued that the volume was ok. There was evidence from EH, WRS that the levels were too loud, yet Mr. J. Matheson, had said that the music was at a reasonable volume. WRS had recommended that he set the noise levels. There was disturbance from the loud music and the outside TV speakers. They were subjected to noise nuisance from children shouting, scooters, footballs and car noises, with horns being

used and loud music from car stereos. The later the pub stayed open the later the disturbance would be. Mrs. Tapp referred to the WRS noise nuisance evidence she had completed, copies of which were provided to all parties to the proceedings. Mrs. Tapp highlighted that she had recorded 96 days of noise nuisance disturbance, some of which had taken place over an entire weekend. It was quieter in the winter months. The impact of all of this was being frequently woken up, unable to open windows in the summer months and not being able to invite family and friends around. Mrs. Tapp informed the Sub-Committee that the noise nuisance had caused her severe health concerns, undo stress and mental health issues.

Noise Monitoring equipment had been installed in her home three times in two years. There was a repetition of noise nuisance each time the DPS changed. The condition that there would be no customers outside of the premises after 21:00 hours was being breached. Customers were still accessing the front and rear of the pub after 21:00 hours. However, she would acknowledge that this had improved since Mr. Matheson had taken over again as the DPS and since a review application was applied for.

Mrs. Tapp stated that she was dreading the spring/summer months and would ask the Sub-Committee to consider the suggested conditions from residents, as detailed on page 47 of the main agenda report. With an additional condition to remove the new smoking shelter, where people tended to congregate.

The Golden Lion was surrounded by residential properties and that could not be changed, but the noise nuisance could change by adding conditions to the premises licence. In her opinion you could not trust the licensee to adjust the noise levels on their equipment.

In response to questions from the Sub-Committee, Mrs. Tapp confirmed that up to 2018, it was a lot quieter when the pub was a community pub. In 2018 the landlord had decided to increase the entertainment nights, which had resulted in more customers and later nights. The noise nuisance was mostly due to the increase in entertainment nights, discos and families being attracted into the premises. Children were still on the premises until midnight. A different clientele was now being attracted by the pub, with a constant racket being made both from inside and outside of the premises.

Mr. Hopkinson further commented that some local pubs had closed, namely the Sugarbrook and Greyhound pubs and that had seen ASB being transferred to the Golden Lion.

In response to further questions from Members, Mrs. Tapp agreed that since Mr. Matheson had taken over as the DPS things had improved. But there was currently no entertainment at the premises and entertainment could be put on again. However, Mrs. Tapp reiterated that



there was still noise nuisance outside of the premises, with children's parties and sporting events on the TV.

Mr. Hopkinson agreed with Mrs. Tapp and stated that you could distinguish what sporting event was on the TV due to the two external speakers used for the outside TV at the rear of the premises. The temporary conditions had helped in terms of the lateness of noise at the back of the pub. However, the noise had just moved to the front of the pub. Children's parties were held in the day, but people tended to hang around, so the noise continued until after 10:00 p.m. whilst the parents carried on drinking. The temporary conditions had not addressed ASB.

At this stage in the Hearing, the Chairman announced that there would be a comfort and lunch break at 13:00 hours.

At the invitation of the Chairman, Mr. P. Robson, John-Gaunt & Partners, the premises legal representative addressed the Sub-Committee.

Mr. Robson informed the Sub-Committee that he was joined today by a number of people connected with the premises and acknowledged the other parties to the proceedings.

Mr. Robson stated that the Golden Lion had traded for many years and had been regulatory opening, operating under the trading hours agreed. Managers of the premises had been replaced since 2005. The current DPS, Mr. J. Matheson was responsible for the day to day running of the business; and Mr. C. Deacon, Regional Operations Manager, was in attendance at today's meeting.

Mr. Robson informed the Sub-Committee that Mr. Matheson was very experienced, with 10 years of experience. The temporary DPS was removed in December 2022, things had not worked out as Marston's had hoped they would.

Mr. Matheson was yet to sign a signed agreement with Marston's; however, they were impressed with what he had done at the premises. The premises was surrounded by residential houses, flats and had the Co-op nearby. Mr. Robson referred Members to the satellite views he had included in his papers, copies of which had been provided to all parties to the proceedings. Members' attention was drawn to the information in respect of the walkway / pathway where locals often used as a shortcut. Passers-by can make noise which could be seen to be coming from the pub. Children from the flats will regularly play ball games in the open areas near the flats and not on the pub premises.

The Golden Lion was a community pub, and it reflected the community it served, and Marston's wanted it to be an asset with community events. Which included music entertainment. Music entertainment was a massive offering of the pub, on Friday / Saturday nights, 9:00 p.m. to

01:00 a.m. which were the current full licensing hours, which had been in place since 2005.

The Golden Lion had a public entertainment licence and music had been at the pub for many years, it was an important and frequent part of the pub.

He accepted that there had been issues and that EH, WRS, the police and DPS did engage positively at their mediation meeting and had agreed to minor variations to the premises licence in December 2021, which became legally binding in January 2022 and had been included on the premises licence.

Mr. Robson highlighted that now we were facing matters with a review application being submitted by Councillor H. Rone-Clarke, Ward Councillor, on behalf of residents. Members were asked to note that, as detailed in the Officer's report; that there were 5 representations supporting the review application and 4 representations expressing support for the premises licence holder.

Mr. Robson then reiterated the reasons for the review: -

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from Harm

Members had heard from the residents present at today's meeting, that late night noise had become problematic. However, he would remind the Sub-Committee that despite the EH Officer involved in monitoring noise nuisance from the premises; that no representations or information had been received from EH, WRS, as a Responsible Authority; and that this had been confirmed by the Technical Officer (Licensing). Mr. Robson highlighted that a great deal of weight should be placed on this information and that he had checked with EH, WRS, and had been informed that there had been no complaints for 8 months.

Mr. Robson highlighted that primarily we were here today because of the noise nuisance complaints from residents. However, there was a difference with the level of noise living next to a pub that has to be acceptable. Significant concerns were raised, hence the meeting in November 2021, whereby a number of robust measures were undertaken; besides the specific conditions already required on the premises licence.

Mr. Robson informed the Sub-Committee of the following additional measures being taken to address the concerns raised: -

- A reduction in opening hours
- Restriction of live music, DJs and Karaoke (they would not be anywhere near the frequency as before)

- The restaurant area to be closed at 10:00 p.m.
- The dividing wall was now reinstalled in the premises.
- Customers to be directed to a different outside area and to prohibit the use of the rear outside area, the area closest to residents after 9:00 pm, with specific signage on doors, as shown on pages 17 and of the papers submitted by him; copies of which were provided to all parties to the proceedings.

Currently the rear area of the property was closed at 9:00 pm., with smokers being directed to the front of the premises. Mr. Hopkinson had commented during his address to the Sub-Committee that closing the rear doors at 9:00 p.m. had improved the situation.

Mr. Robson stated that Mr. Matheson had tried hard to put things in place and referred to one of representations submitted in support of the premises licence holder. They would advise Mr. Matheson should there be any noise issues going forward.

Mr. Robson drew Members' attention to the representations in support of the premises licence holder, as detailed on pages 53 to 58 of the main agenda report.

Mr. Robson continued and in doing so informed the Sub-Committee that Mr. Matheson had returned as DPS in June 2022. Due to significant concerns still being raised, and with a lack of information from EH team, WRS; Marston's had employed the services of Mr. P. Rogers, Acoustic Expert from Sustainable Acoustics and Mr. D. Butterworth, Licensing and Security Compliance Consultant. Their reports could be seen on pages 63 to 142 of the papers submitted by Mr. Robson, copies of which were provided to all parties to the proceedings.

Mr. Robson provided a brief verbal snapshot of Mr. Rogers report, stating that in the report it was noted that 'it was the opinion of the independent acoustics expert that in the existing operational mode he does not consider that a nuisance is occurring for the existing operation.' Mr. Robson acknowledged that the temporary condition to restrict drinks / food to the outside area after 21:00 hours, had not restricted smokers using the area. However, smokers were now being directed to the front of the premises.

Staff would proactively monitor and undertake checks to the rear and front of the premises on a Friday and Saturday after 21:00 hours, to keep any noise down.

Mr. Rogers report also referred to the outside TV at the rear of the premises only being used for a restricted number of times per year past 21:00 hours; and that prior to these times that the volume levels would be set at a level that did not affect the closest residents for not more than 30 times a year. Although the use of the outside TV was not a licensing objective, Marston's were willing to put these recommendations in place, as suggested by their Acoustic Expert.

Mr. Robson reiterated that the use of signage stating 'No drinks outside after 9 p.m.' was in situ and that clear signage was a powerful tool to remind customers. Customers would be directed to the front of the premises outside smoking area after 21:00 hours.

The Measures / conditions in Mr. Rogers report were detailed in full on pages 8 and 9 of the information provided by Mr. Robson, copies of which were provided to all parties to the proceedings.

At this stage in the Hearing, the Chairman announced a comfort / lunch break.

Accordingly, the meeting stood adjourned from 13:12 hours to 13:50 hours.

Having resumed, at the invitation of the Chairman, Mr. Robson addressed the Sub-Committee.

Mr. Robson stated that he had spoken with Mr. Matheson and that he had held a number of discos (5) since returning in June 2022. Mr. Matheson had stopped children being at the premises after 9:00 pm. and adults after 11:00 p.m., and that there had been no issues.

Mr. Matheson stated that he did not think that the dates when the discos were held correlated with the dates on the WRS noise complaints log.

At the invitation of the Chairman, Mr. P. Rogers, Acoustic Expert from Sustainable Acoustics, addressed the Sub-Committee.

Mr. Rogers informed Members that he was an expert in this area and that he had a duty to the Sub-Committee to be honest in his findings and that the process was fair. To say his report was only a snapshot was not correct. His report was to see what was currently happening and if this were likely to continue and how things could be improved for residents now and in the future; and to allow the DPS to take proactive action to monitor the situation. Mr. Rogers further referred to no representations being received from EH, WRS.

The premises had been restricted in operating and had been constrained to the point where the operation was struggling to commercially exist. As detailed in his report, he had attended the premises on 3 nights in October 2021 for observation and continued monitoring of noise levels over a 10 day period, which had included two weekend periods. The DPS was managing music levels and following checks of the perimeter used his judgement to see if the levels were acceptable. There were no current problems at the front of the premises. Should problems arise in the future an acoustic leveller could be used as a fallback position. There was nowhere else to locate people who wanted to smoke, the best place was at the front of the premises.

Mr. Rogers drew Members' attention to the Noise Management Plan, as detailed on pages 116 to 119 of the information provided by Mr. Robson, copies of which were provided to all parties to the proceedings.

Mr. Rogers further stated that the best way to manage noise from people was to monitor the behaviour of people using the premises, which could be managed well or less well managed. It should be made easy for staff to manage, as referred to on page 116 of the Noise Management Plan.

Mr. Rogers further referred to the 'Recommended Mitigation Package (To Revive Music & Outside Areas),' as detailed on pages 82 and 83 of his report, copies of which were provided to all parties to the proceedings.

Mr. Rogers further stated that it should be an embedded idea that some noise should be acceptable when you lived near to a pub. Since 2018 there may have been occasions / reasons to complain, however going forward it was important to embed best practice with a Noise Management Plan or embed conditions on the premises licence.

The situation had caused an impact, but it had not broken the Public Nuisance licensing objective. The best opportunity for the community was to try and achieve a balance with the premises.

Mr. Robson referred to the police representation and the number of incident logs submitted by the police. There were 40 incident logs noted over a specific time period, June 2018 to the present day, 53 months. Which equated to 1 incident per 40 days. If the number of incidents were scrutinised not all were connected to the premises. Some of the incidents recorded were not clear in the connection to the pub and there were two incidents when the premises had called the police, they had not done anything wrong. 25% of incidents were not attributed to the premises or of a particular concern. The crime reports submitted by the police were not without issue, with 260 reported crimes of which 180 related to the Co-op location. So, it was unfair to suggest these were due to the pub's clientele. Mr. Robson highlighted that it was not unusual for a community pub in this sort of location to have this number of incident logs, as highlighted in the report submitted by Mr. D. Butterworth, Licensing and Security Compliance.

Mr. Robson stated that the police had requested more door staff and had during the course of the Hearing; also suggested "That the police and 'other authorities' would be, upon 2 weeks' notice, able to require door supervisors"; as well as requesting a reduction in hours. All of this would put a financial burden on the premises. The reduced hours agreed with the police would not be too far away from what residents now required.

There was no information from the police to show how the premises was now operating. Mr. Matheson had made great strides since the review application was submitted. He was a responsible manager and there

was a lack of any evidence of issues at the premises during the last few months.

Mr. Robson then referred to the information supplied by Mr. Butterworth in respect of the 40 police incident logs and his observations on the 21<sup>st</sup> and 22<sup>nd</sup> October 2022, as detailed on pages 127 to 131 of the information he had supplied, copies of which were provided to all parties to the proceedings.

The meeting held with the police on 21<sup>st</sup> October 2021 where the premises licence holder had agreed to certain conditions was a constructive meeting, and the police were happy with the outcome.

There was no evidence or justification for the police requesting additional conditions in respect of door staff and a further reduction in opening hours. The new trading patterns offered by the premises were here to stay. Further reducing those hours and additional door staff were onerous and would have significant financial implications for the premises.

The current door staff condition was sufficient and was agreed and added under the minor variations to the premises licence. The police request suggested during the course of the Hearing, was not proportionate or justifiable; and there was no evidence.

The premises had operated particularly well over the last 6 months with Mr. Matheson in place.

At the invitation of the Chairman, Mr. D. Butterworth, Mr. D. Butterworth, Licensing and Security Compliance Consultant addressed the Sub-Committee.

Mr. Butterworth stated that he had read the report, the observations, police logs and the visits check sheet. Mr. Robson had covered a lot of what needed to be covered. Mr. Butterworth drew Members' attention to pages 128 to 134 of his report, as detailed in the information provided by Mr. Robson, copies of which were provided to all parties to the proceedings.

Mr. Butterworth highlighted that during his review of the 40 police incident logs, only one incident referred to a noise complaint. The police evidence did not support the review application that the Premises Licence Holder was not supporting the public nuisance Licensing Objective. There were also very few incidents recorded on the police logs over a 5 year period. There were no noise nuisance complaints during 2022.

Mr. Butterworth commented that he accepted the comment made by Councillor Rone-Clarke with regard to it being very different circumstances visiting and observing the premises in October 2022, compared to June / July. However, he had highlighted in his report that

no outdoor events were taking place during his observations. His recommendations on page 132 of his report, noted that there had clearly been a breakdown in the community relationship between the operators of the Golden Lion and a small minority of the local residents. The recommendations he had made were to ensure that the venue did not breach its licence in the future and to aim to rebuild trust and relationships with those local residents.

Mr. Robson further addressed the Sub-Committee and stated that the pub was a community pub which should be of benefit to the community.

Mr. Robson then drew Members' attention to the representation received from Councillor Kyle Daisley, in support of the premises licence holder; as detailed on pages 54 to 55 of the main agenda report.

Mr. Robson further commented that bouncy castles were not a licensable activity. He further reiterated that no representations had been received from EH, WRS.

How the premises was currently operating and with the additional conditions agreed by Marston's, the measures taken to address any issues were appropriate and proportionate, and that furthermore the police were in favour of the additional conditions.

- The hours of licensable activities to be reduced to 23:30 hours daily (except for New Year's Eve which will retain current non-standard timing)
- The public opening to be reduced to 00:00 daily.

Mr. Robson acknowledged that there had been issues historically, but there had also been improvements since Mr. Matheson had taken over. Mr. Matheson had worked hard, and Marston's were willing to put forward strict conditions and assurances in place, as detailed on pages 8 and 9 of the information he had provided, copies of which were provided to all parties to the proceedings.

In summary, adverse comments had been raised and Marston's had felt the need for experts to be brought in, who's reports had been disclosed to Members (and all parties to the proceedings). He would reiterate that with regard to public nuisance, that no representations had been received from EH, WRS, as a Responsible Authority consulted with.

Crime and disorder issues were not supported by their Licensing Consultant or when looking over the police incident logs and crime reports.

Marston's had formalised good / best practice by willingly offering conditions to be placed on the licence. A review application was not to punish a premises but to identify issues and address and remedy them.

The current running of the premises had improved, and he acknowledged the concerns raised by residents, which the licence holder was happy to address; and as stated earlier, more than happy to offer robust, appropriate and proportionate conditions.

In response to questions from the Sub-Committee in respect of noise nuisance and the use of an acoustic limiter. Mr. Rogers informed Members that if the boundary checks and the closure of doors did not address noise nuisance then the premises could use an acoustic limiter. Anyone providing amplified music would be able to provide their own equipment, but this would need to be linked into the premises own sound system / acoustic limiter.

Members sought further clarification with regard to the noise nuisance from the two external speakers on the outside TV, as highlighted by Mr. Hopkinson when he had addressed the Sub-Committee.

Mr. Rogers explained that there were two external speakers on the outside TV at the rear of the premises. Marston's had addressed any further potential noise nuisance following his recommendation that, the TV in the rear external area would not be used more than 30 times per year and that the volume would be set to an acceptable level.

Members raised further questions of the use of bollards and additional door staff.

Mr. Matheson responded to further questions from the Sub-Committee with regard to under 18's being off the premises by 21:00 hours and checks on the outside areas after 21:00 hours. Mr. Matheson explained that at 20:30 hours customers would be reminded that under 18's needed to be off the premises by 21:00 hours. Staff would conduct regular checks on the outside area after 21:00 hours. Regular local customers were in the habit of leaving their drinks inside if they went outside. Signage on the doors would highlight that no drinks to be taken outside. Staff did challenge any customers attempting to take their drinks outside were happy to do so.

In response to Councillor Rone-Clarke, with regard to the noise experienced by residents and noise nuisance from discos between 9:00 p.m. and 11:00 p.m. Mr. Rogers referred to the Noise Management Plan to manage the premises in accordance with the licensing objectives and minimise the disturbance of nearby residents. WRS had agreed the appropriate noise levels so there should not be an issue in the future.



Mr. Tapp stated that noise issues were not for the police to monitor. EH, WRS had recorded the noise issues in June 2022, and he was surprised that there was no representation from them EH, WRS.

Mr. Robson took the opportunity to respond and stated that EH, WRS had informed him that there had been no complaints since April 2022.

In response Councillor Rone-Clake highlighted that EH, WRS, had installed noise monitoring equipment in resident's homes, following complaints about noise nuisance. Therefore, you could not say that there had been no complaints about noise. He had also raised issues with EH, WRS.

Mrs. Tapp further stated could we trust the judgement of the DPS to monitor the volume of noise from the premises. A Noise Abatement Order was issued on the previous DPS. Mr. Matheson had booked the same DJ until 1 a.m. The noise was horrendous for them on 30<sup>th</sup> October (Halloween disco) and 14<sup>th</sup> December 2022. They did not complain due to the ongoing review application, but the music could be heard in their house from 7:00 pm.

Mr. Matheson responded and stated that fair points had been made. He was the DJ at the Halloween disco and staff had monitored the outside area. In trusting his judgment and that if sound was a nuisance, he was happy to provide his phone number and email address as he wanted to work with neighbours and to rebuild a relationship. No-one had contacted him directly with any complaints he just found out later, 6 months later, looking at the WRS noise monitoring logs.

Mrs. Tapp stated that if music were to resume he needed to accept responsibility and keep the doors closed, however noise would still emanate from the premises when customers left the building.

Mr. Robson took the opportunity to inform the Sub-Committee that the lobby doors both front and rear would be closed. Music levels needed to be set and that there would also be the benefit of having staff actively walking and monitoring outside of the premises. This was his preferred choice of advice, then in the future if there were still noise issues and acoustic levelling system could be installed, but this was not currently required. It was possible to set the venue up so as not to disturb residents in their properties.

At this stage in the Hearing and with the agreement of the Chairman, Mr. C. Deacon, Regional Operations Manager, Marston's addressed the Sub-Committee.

Mr. Deacon commented that it was important to remember the scenario during 2002 to 2018 when there was entertainment weekly, so clearly a process in place then that worked. We needed to find a healthy way forward.

In response to Mrs. Tapp, Mr. Matheson, stated that residents in support of the premises licence holder, would still be happy that improvements were being made and conditions implemented and followed by everyone. He was happy to address any snagging issues brought to his attention to iron them out.

Mrs. Tapp commented that it had vastly improved since Mr. Matheson had taken over, however, she was still concerned about music at the premises.

Further discussion followed with regard to bollards being installed on the car park. Mr. Deacon stated that this was something that had come up as a possible solution to address the concerns raised in respect of noise nuisance from the car park. They had looked at a number of options taking into account deliveries and staff having to access the car park. In his opinion he could not see the benefit, but it was something that could be looked at again in the future if there was still a problem.

Mr. Harrison reiterated that Mr. Rogers had acknowledged that there was a difference making his observations in October with no events taking place, as to making observations in the spring / summer with events taking place.

In response Mr. Rogers commented that it was a completely arbitrary timeframe to produce a sample number of Fridays / Saturdays to represent what was happening now. He did not liaise with the premises prior to his visits, he carried out an independent review which did not represent spring / summer that was just a fact.

Members referred to the Licensing Plan of the licensed area, seeking clarification on the lobby doors.

In response Mr. Deacon informed Members that to his knowledge the lobby doors had always been there.

Members sought further clarification from Mr. Matheson with regard to his role as DPS at another licensed premises.

Mr. Matheson confirmed that he was also the DPS at a second venue, the Black Cross, in the Town Centre. However, a member was staff was in training to take over the role of DPS at the Black Cross.

At the invitation of the Chairman to sum up, Councillor Rone-Clarke addressed the Sub-Committee.

In summing up, Councillor Rone-Clarke stated that it was reassuring that a Member of the Sub-Committee had raised questions as to why more had not been done at the premises to address the concerns raised.

He would agree with Mrs. Tapp that there had been some recent improvements. However, the balanced fact was that the recent improvements were due to his review application being submitted. These improvements were not guaranteed to continue into the spring / summer months, they were tangible was to protect themselves.

He knew the area and the crime reports could not be separated from the premises and the Co-op area. The Noise Management Plan and recommendations from their experts, were all phrases that had been heard before. After 4 years of disruption, with things already being promised, had there been a process in place to address resident's concerns, he would not have felt the need to complain. Residents had called the police every time there was an incident and the police had felt the need to support a review of the premises licence.

Carrying out observations in October when there would have been not enough contraventions to witness was not enough. There was a lack of representation from EH, WRS and residents had liaised with an officer from EH, WRS, who had said, before leaving WRS, that they were sorry that they could not help.

When the restaurant area was moved it create noise for residents who were only 22 metres away, which was quite concerning as residents had relied on the good faith of the brewery. Residents were having to continually and actively monitor noise nuisance.

At the invitation of the Chairman to sum up, PC A. Stanley, West Mercia Police addressed the Sub-Committee.

In summing up, PC Stanley informed the Sub-Committee that they had requested additional door staff. Mr. Robson had pointed out 25% of positive reporting to the police by the venue, but the other 75% was not discussed.

In the opinion of the police, the additional condition as requested during the course of the Hearing "That the police and 'other authorities' would be, upon 2 weeks' notice, able to require door supervisors", was warranted if you looked at specific incidents in June and August 2021 that were reported at the premises, whereby additional door staff could have helped prevent.

Police logs were referred to as not all police logs were submitted turned into a crime report. Crime reports were submitted when the police attended an incident.

The Sub-Committee expressed their reassurances that they had seen and looked at everything provided, all of the information and papers submitted by all parties to the proceedings.

At the invitation of the Chairman to sum up, Mrs. Tapp and Mr. Harrison addressed the Sub-Committee.

In summing up, Mrs Tapp informed the Sub-Committee that music had not always been a regular occurrence, only during the last 4 years. Having music would be improved if the doors were closed due to the geographics of the residential area. However, in her opinion how could you trust the DPS to pick an acceptable volume level. The only solution would be to stop music and to close the pub earlier. She would continue to monitor the noise if needed. Sensible licensing conditions to address the noise nuisance were needed.

In summing up, Mr. Harrison further informed the Sub-Committee that ASB and noise nuisance and foul language needed proactive measures on the licence. He did not want to see the premises closed and recognised the rights of the community and residents to have a community pub.

At the invitation of the Chairman to sum up, Mr. Robson addressed the Sub-Committee.

In summing up, Mr. Robson stated that he had thought / hoped that there had been improvements. It had taken a long time, but recent improvements had taken place since Mr. Matheson had become the DPS in mid-June 2022, also hence no representations from EH. WRS. EH, WRS could have accessed any historical records.

He would ask Members to make an evidence based decision. The premises were offering to restrict hours and to provide a robust package of conditions and measures, which were appropriate, proportionate and justifiable, in order to address the issues raised.

Having offered these restrictions and conditions he would suggest letting them 'bed in' to address the issues raised. Members had heard that things had improved with Mr. Matheson, DPS being in place since mid-June 2022. The current evidence before Members showed that things had been turned around.

At the invitation of the Chairman, the Council's Legal Advisor addressed the Sub-Committee.

The Council's Legal Advisor stated that a lot of information had been provided and that Members should also have regard to the representations received from those who had been unable to attend the Hearing.

The Sub-Committee was obliged to determine the review application with a view to the promotion of the licensing objectives which were: -

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from Harm

The Sub-Committee could add conditions to the premises licence that were appropriate, proportionate and evidence based.

At this stage in the Hearing, the meeting stood adjourned from 16:18 p.m. until 16:26 p.m. in order for Members to consider if they had received all of the information required to make their decision.

Having had regard to:

- The licensing objectives set out in the Licensing Act 2003
- The guidance issued under S182 of the Act
- The Council's Statement of Licensing Policy
- The report presented by the Technical Officer (Licensing), Worcestershire Regulatory Services including the application and written representations
- The oral submissions made at the hearing by Councillor H. Rone-Clarke, West Mercia Police and three residents (from two households), Mr. & Mrs. Tapp and Mr. Harrison.
- The written and oral representations made at the hearing by Mr. P. Robson, solicitor, on behalf of the premises licence holder, Mr. J. Matheson the current DPS, Mr. W. Garrett, Area Manager, Mr. P. Rogers, Acoustic Expert and Mr. D. Butterworth, Licensing Consultant.
- The written representations opposing the application and in support of the premises.

The Sub-Committee decided to modify to the licence in the following terms : -

- The hours of licensable activities to be reduced to 23:30 hours daily (except for New Year's Eve which will retain current non-standard timing).
- The public opening to be reduced to 00:00 daily.

The Sub-Committee also decided to add the following conditions to the licence: -

- A meeting with the residents of 4 Farrier Close, 5 Farrier Close, 14 Cooper Close, 16 Cooper Close, 18 Cooper Close and the local Ward Councillor at the premises, to be offered every three months subject to up to date contact details for the parties being in the possession of the licence holder.
- A contact number shall be in place that operated when the premises was providing licensable activities, subject to reasonable periods of maintenance or repair. The contact number and a contact email address shall be displayed on the premises, be online and supplied to the Licensing Authority who shall be informed of any change in the contact details as soon as reasonably practicable.
- The public rear access doors shall be kept closed after 21:00 hours except in the event of an emergency and appropriate signage will be prominently displayed on the doors from 21:00 hours to that effect.
- The rear external seating area shall not be used after 21:00 hours (except where permitted below\*)
- The external television to the rear of the premises shall only be used on no more than 30 occasions per year up until 21:00 hours (\*except in relation to special occasions e.g., Broadcasting of a sporting event of national or international significance, which would be limited to 3 times a year). A log to be kept of the occasions when the external TV was used. Only the speakers built into the TV shall be used.
- All public external exit doors and the lobby doors to have self-closers.
- If music entertainment was provided beyond a background level after 21:00 hours, then regular documented checks to be undertaken along the premises' boundary with residential properties on Farrier Close and Cooper Close.

- Notices to be prominently displayed in all external areas used by customers reminding them to be quiet whilst using the facilities provided and to respect the needs of the local residents.
- On Friday and Saturdays from 21:00 hours, regular checks of the rear and front external areas to be undertaken and documented.
- The Noise Management Plan to be implemented and changes to the document notified to the Licensing Authority.

The meeting closed at 2.26 p.m.

Chairman