

## **LICENSING SUB-COMMITTEE**

Minutes of the proceedings at a virtual meeting of the Licensing Sub-Committee on Monday, 11 January 2021, at 1.00 p.m.

Present

Councillors

Kevin Holmes

Helen Ladhams

David Webster

Officers

Una Bell	Case Management Team Leader
Courage	Legal, Governance and Democracy Specialist
Aguobasinmwin	
Patrick Cantley	Specialist, Licensing
Sean Hall	Principal Specialist (Health & Environment)
Thomas Toumazou	Environmental Protection - Senior Specialist
Louisa Wania	Case Management Officer

### **LS/24 INTRODUCTION**

Following confirmation that the live stream of the meeting had commenced, the Legal, Governance and Democracy Specialist welcomed everyone to the virtual meeting of South Lakeland District Council's Licensing Sub-Committee.

The Legal, Governance and Democracy Specialist then invited the Interested Parties, who had been dialled into the meeting, Mr Peter Nicholson, Licence Holder and Designated Premises Supervisor, The New Inn, Kendal; Police Inspector Paul Latham; and Ms Lisa Judge, Barrister at Law, to introduce themselves and confirm that they were able to hear the proceedings. The Legal, Governance and Democracy Specialist then invited Officers present Mr Patrick Cantley, South Lakeland District Council Licensing Specialist; and Mr Thomas Toumazou, South Lakeland District Council Environmental Protection Senior Specialist, to introduce themselves and advise whether they were taking part by video or audio and to confirm that they were able to see (where practicable) and hear the proceedings. The Legal, Governance and Democracy Specialist then invited Members of the Sub Committee to introduce themselves and advise to advise whether they were taking part by video or audio and to confirm that they were able to see (where practicable) the proceedings. He then referred to officers present at the meeting who would introduce themselves when asked to address the meeting.

### **LS/25 ELECTION OF CHAIRMAN**

RESOLVED – That Councillor Helen Ladhams be elected Chairman for the meeting.

### **LS/26 CHAIRMAN'S INTRODUCTIONS**

The Chairman referred to the new Government legislation which allowed councils to conduct remote meetings and explained in detail to all taking part.

**LS/27 APOLOGIES AND RECONSTITUTION OF MEMBERSHIP**

RESOLVED – That it be noted that there were no apologies and no reconstitution of membership.

**LS/28 DECLARATIONS OF INTEREST**

RESOLVED – That it be noted that no declarations of interest were raised.

**LS/29 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS**

RESOLVED – That the items in Part II of the Agenda be dealt with following the exclusion of the press and public.

**LS/30 PROCEDURE FOR MEETING**

The Chairman read out the procedure of the meeting.

**LS/31 LICENSING ACT 2003 – REVIEW OF PREMISES LICENCE**

The Chairman advised Members of the Sub-Committee and those who had been dialled into the Sub-Committee meeting that an email had been received from the Solicitor representing Mr Nicholson, the premises licence holder and designated premises supervisor, which requested that the hearing be adjourned.

The Chairman requested agreement from all parties present that the request for an adjournment be considered. The documents for consideration included emails from the representative of the licence holder and also a witness statement. All parties agreed that the documents circulated prior to the meeting be considered.

All Members of the Sub Committee confirmed that they had read documents circulated prior to the meeting.

All parties agreed that the reason for the request fell within Part I of the Agenda with no confidential information under the Local Government Act 1972 being disclosed or discussed.

Lisa Judge, representing Mr Nicholson, addressed the Sub-Committee. She referred to the bundle of email information that had been submitted that morning and stated that its lateness was further indicative of late nature of the preparation of Mr Nicholson's case. Ms Judge went on to explain that Mr Nicholson had received notification of the review of the licence however, there had been delays in securing insurance backed funding and the claims handler had only confirmed that indemnity was in place on 17 December 2020. Consequently there was a delay in her receiving formal instruction and a delay in engaging in pre hearing work. In addition certain segments of evidence submitted had been served electronically by the police and had been sent by mail to Mr Nicholson on 11 December 2020. Ms Judge stated that the evidence had not been received by Mr Nicholson until the 23 December 2020 and she and her instructing solicitor had not had sight of the evidence.

Ms Judge went on to explain that in regards to the adequacy of time available to her, as counsel, and to her instructing solicitor, to ensure Mr Nicholson's case was properly and fairly presented to committee, she had an insufficiency of time to undertake that task.

There were a number of allegations raised and all matters needed to be adequately rebutted on his part. Ms Judge stated that she was in a position professionally that she was not able to adequately represent Mr Nicholson's interests. In conclusion Ms Judge stated that there was no undue prejudice to the Licensing Authority, as the public house in question was currently closed due to the Coronavirus Health Protection Regulations 2020. She sought a very short adjournment so Mr Nicholson's case could be fairly placed before the Sub-Committee in order that adequate consideration could be given to his livelihood.

In response to a question raised by a Member of the Sub-Committee, Ms Judge explained that she sought a short adjournment of 14 days or thereabouts.

Inspector Paul Latham stated that although he accepted that Ms Judge had been late instructed into the matter, Mr Nicholson had been aware of the proceedings for some considerable time. Inspector Latham accepted the delays caused by funding however he rebuffed the fact that the CCTV footage had not been received by Mr Nicholson until 23 December 2020 as it had been sent recorded delivery on 11 December 2020 and had been signed for on the 16 December 2020. In addition the evidence had been presented in a form which Mr Nicholson would have able to file share with his solicitor.

Ms Judge responded stating that she accepted the chronology regarding the delivery and receipt of the evidence. However, she understood that it had been received on 23 December 2020. She went on to state that the sharing platform used by Cumbria Constabulary was dissimilar to the means used by other court centres for the secure means of transferring electronic data. She understood that the evidence was provided to Mr Nicholson in CD-ROM format and felt that there was an assumption that Mr Nicholson had the ability to file share. Ms Judge concluded by stating that she had not seen the evidence and that was the position she was in.

Inspector Paul Latham, confirmed that the evidence had been sent by CD-ROM.

***Note – The Sub-Committee passed a resolution to adjourn the meeting to exclude the press and public in making its decision and retired in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) in order to consider the request to adjourn the meeting.***

The Chairman explained to all Interested Parties that they would be disconnected from the virtual meeting in order for the Sub-Committee to reach their decision. Once the Sub-Committee had concluded their deliberations the Interested Parties would be reconnected and the meeting would be reconvened.

The Sub-Committee, supported by the Legal, Governance and Democracy Specialist then withdrew at 1.26 p.m. to consider the request for an adjournment.

The meeting reconvened at 1.47 p.m.

The Interested Parties were reconnected to the virtual meeting and were individually asked to confirm that they could hear and see the proceedings.

The Chairman addressed the hearing and requested a vote on the motion to adjourn the hearing, based on the information which had been provided and for the reasons outlined in Mr Nicholson's barrister's letter. It was proposed that the adjournment would be for two weeks to allow all parties to view the body cam footage and to allow Mr Nicholson time to take advice. The Chairman confirmed that in their deliberations the Sub-Committee had taken into account the fact that due to Coronavirus pandemic the premises were currently

not operational. The adjourned hearing would commence at 1.00 p.m. on the 25 January 2021.

Councillor David Webster proposed the motion.

At this point in the proceedings, Ms Judge requested permission from the Chair to address the hearing. She explained that while the Sub Committee were deliberating, she had spoken to Inspector Paul Latham regarding the proposed adjournment, as she had identified that she was not available on 25 January 2021. She expressed the need for continuity of representation and proposed an alternative date, which had been agreed by Inspector Latham, of 1 February 2021.

The Chairman stated that the Sub Committee would return to their deliberations to consider the alternative date.

***Note – The Sub-Committee passed a resolution to adjourn the meeting to exclude the press and public in making its decision and retired in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) in order to further consider the application.***

The Chairman explained to all public participants that they would be disconnected from the virtual meeting in order for the Sub-Committee to reach their decision. Once the Sub-Committee had concluded their deliberations the public participants would be reconnected and the meeting would be reconvened.

The Sub-Committee, supported by the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) then withdrew at 1.50 p.m. to consider the alternative proposal.

The meeting reconvened at 1.58 p.m.

The Interested Parties were reconnected to the virtual meeting and were individually asked to confirm that they could hear and see the proceedings.

The Chairman proposed that the Hearing was adjourned until Monday, 1 February 2021 at 10.00 a.m. The proposal was seconded and it was

RESOLVED – That the meeting be adjourned.

The meeting ended at 1.58 p.m.