

## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

THURSDAY, 1 JULY 2021

PRESENT: Councillors John Bowden, David Cannon, Geoff Hill and Sayonara Luxton

Also in attendance: Councillor Maureen Hunt

Officers: Neil Allen, Craig Hawkings, Mark Beeley and Shilpa Manek

### APPOINTMENT OF CHAIRMAN

**RESOLVED UNANIMOUSLY: That Councillor John Bowden be Chairman for both applications.**

The Panel for the ATIK application was Councillors Bowden, Cannon and Hill.

The Panel for the Black Boys Inn was Councillors Bowden, Hill and Luxton.

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor David Cannon. Councillor Sayonara Luxton substituted for the second, Black Boys Inn application.

### DECLARATIONS OF INTEREST

For the ATIK Application:

Councillor John Bowden declared a personal interest as he had previously served on the Panel for an application for these premises. Councillor Bowden also declared that he lived approximately 200 yards from the premises and his third declaration was that he personally knew one of the objectors, he had previously spoken about general antisocial behaviour at the objector's premises in Victoria Street in the past.

For the Black Boys Inn Application:

No declarations of interest were received.

### PROCEDURES FOR SUB COMMITTEE

#### CONSIDERATION OF AN APPLICATION OF A NEW PREMISES LICENCE THE LICENSING ACT 2003

##### **ATIK Application**

Councillor Bowden in his role as Chairman made an application for advice to Legal to adjourn the proceedings as there were a large number of objections and a large number of documents for the Panel to consider. The Chairman felt that the Panel's ability to do this was impaired, over a Zoom meeting, both for the ability to conduct the meeting and also through the volume of documentation to read. This was solely in the public interest and also taking into consideration that the time allocated was not sufficient for all objectors to give their position. The Chairman suggested that the Panel be held face to face on a suitable date.

One of the public speakers, Jessica Ainley, asked to clarify that until a hearing was heard and a decision made, the club could not open. Craig Hawkings confirmed that there would be no licence for the club to open until the hearing and the subsequent decision. Craig Hawkings continued that if everything went to plan and the restrictions were lifted on 19 July, the club, or anyone, could apply for a temporary event notice for up to 499 persons to attend a venue. The premises licence would not be granted until the application was determined. The Legal representative confirmed this.

The Legal representative also gave advice to the Panel for the grounds for an adjournment which fell under Regulation 12 of the 2005 Regulations, the test where it was considered to be necessary for the consideration of any representations or notice made by a party. The Legal representative confirmed that the ability to deal with the quality of the representations in terms of making the decision.

The Applicants representative, Jonathan Smith, commented that the application had been timed correctly and lodged in good time for Freedom Day in July. They were under property contractual restrictions with the landlord that the applicant needed to try and satisfy if the licence was granted on a new lease. The concern was that all paperwork had been submitted in good time before today and discussions had taken place to whether the hearing would be held in person or virtually and it had been confirmed to us that it would be held in Zoom. The applicant was disappointed that it was being adjourned and would have been happy to have attended in person with all the clients, who had all congregated at the offices in Nottingham. The applicant asked when the hearing would be deferred to. The applicant requested that it be heard within seven days and then the decision be given on the day of the hearing. The Chairman advised that the logistics of organising another meeting would all have to be considered, including finding a Panel and the availability of Officers and the venue. The applicant commented that since the meeting had begun, it would have to be the same three councillors.

Councillor Cannon commented that getting the next meeting date within seven days was reasonable subject to all the conditions that had been mentioned.

The Chairman advised all that he would not be available for the next meeting. Jessica Ainley, public speaker, commented that she was a professional, working full-time, was a mother with two children and it would be very difficult to readjust her diary. Jessica Ainley requested that the meeting take place in the evening.

This meeting ended for the Panel to discuss in private.

**Decision: that the meeting would adjourn until a suitable date was found for a face to face meeting.**

### **Black Boys Inn Application**

The Chairman commented that he had been considering the volume of work that had to be undertaken, the number of documents that were before the Panel and the number of objectors that were before the Panel that wanted to put their objections across. The Chairman and the Panel were of the opinion that this application was not suitable for a virtual meeting and the effect would be that the reports and evidence would not have had the appropriate amount of time and ability for the Councillors to consider all the evidence, the volume of documents to be seen and also covered visually by the laptops and iPads that Members had and visually talking at the same time would be too voluminous. The Chairman wanted to retire to take legal advice to adjourn the hearing under Regulation 12 of the Licensing Act 2003 to be held face to face, in public, as this was a very large application.

A public speaker, Mr Jon Payne, representative of a number of residents, requested that the Panel considered the first page of the letter of representation that had been submitted which was in relation to the validity of the application, there were a number of discrepancies that had been highlighted, as to whether the application should be considered.

The Applicant, Mr Matthew Valentine, commented that he understood that legal advice needed to be taken but he would like to hear what advice the legal representative was giving the Panel and be involved in the debate on the adjournment. The Applicant commented that he was trying to open a business that was costing money every single day. It was very important to have certainty and clarity. The Applicant commented that he also had rights to have the application determined within a certain period. The Applicant felt that the Council had made an error and published the incorrect application, which was not even relevant, and the vast number of complaints made by the public were referring to the incorrect application. The Applicant wanted to hear the legal advice to help put his mind at rest.

Councillor Maureen Hunt wanted to comment on the points raised by the Applicant, but the Chairman did not allow this. Councillor Hunt asked if the new meeting would be held after the 19 July. The Chairman advised that this depended on the logistics.

The Clerk asked for the Legal representative to comment.

The Legal representative advised all present that the Panel had the power to adjourn under Regulation 12 of the 2005 hearing regulations which read, a hearing may be adjourned where it was considered necessary for the consideration of any representation or notice made by a party. The Legal representative continued that he was hearing that the Chairman was concerned about the format of a virtual meeting meaning that the Panel couldn't properly consider the representations during the meeting. The Legal representative commented that the test was whether it was necessary to adjourn and the Chairman said it was.

Councillor Luxton clarified whether the Panel could adjourn, and the Legal representation agreed that they could under Regulation 12. It would now be advisable to move into a private session to consider all the points and then inform the decision to all present.

The Applicant made one final comment that everyone else was carrying on in these difficult times and carrying out their meetings in this format, on Zoom. The Applicant understood that the Panel needed more time to look at this, but the documentation had been available for some time. The Applicant felt that he had a right to have his application heard today. If the Panel were to adjourn, was there a process that he could have a temporary leave to open in case there were legal issues in meeting in person before 19 July.

The Councillors, Legal representative and the clerk left the meeting.

**Decision: The Chairman announced that the meeting would be adjourned. The Chairman continued that the meeting would be rescheduled for a face to face meeting so that the Panel could listen and hear both the applicant and the objectors in a fair and meaningful way, in the public interest, the volume of material and the discussions that were required were unsuitable for a Zoom meeting, at this stage.**

The meeting, which began at 11.30 am, finished at 2.30 pm

CHAIRMAN.....

DATE.....