

LICENSING SUB-COMMITTEE 5

Wednesday 28th September, 2005 at 10.00am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Taylor (Chairman – The Old Park)
Councillor Blood (Chairman – The Lutley Mill and Street Trading)
Councillor Bradney
Councillor Tomkinson (The Old Park only)
Councillor Ms Craigie (The Lutley Mill and Street Trading)

Officers

The Assistant Director of Law and Property – Morning session only, Mr K Edwards (Principal Solicitor – Afternoon session only) and Mr Jewkes (Directorate of Law and Property)

22

MINUTES

RESOLVED

That the minutes of the meetings of the Sub-Committee held on the 6th September and 15th September, 2005, be approved as a correct record and signed.

23

DECLARATIONS OF INTEREST

No member made a declaration of interest in accordance with the Members' Code of Conduct.

24

APOLOGIES FOR ABSENCE

Apologies for absence from the meeting were submitted on behalf of Councillor Ms Craigie (morning session only) and Councillor Taylor (afternoon session only).

25

APPOINTMENT OF SUBSTITUTES FOR THIS MEETING OF THE SUB-COMMITTEE

It was noted that Councillor Blood had been appointed to serve as a substitute for Councillor Taylor for the afternoon session of this meeting of the Sub-Committee only and that Councillor Tomkinson had been appointed to serve as a substitute for Councillor Ms Craigie for the morning session of this meeting of Sub-Committee only.

26

APPLICATION TO VARY A PREMISES LICENCE, THE OLD PARK,
MIDDLEPARK ROAD, DUDLEY

A report of the Director of Law and Property was submitted on an application received from John Gaunt and Partners, Solicitors, on behalf of Wolverhampton and Dudley Breweries to convert an existing licence into a premises licence and to vary the premises licence simultaneously in respect of the Old Park, Middlepark Road, Dudley.

Mrs P Dicken, licensee, was in attendance at the meeting together with Mr M Doherty, Area Manager for Punch Taverns.

Also in attendance were Mrs Smith and Mrs Palmer-Barnes, objectors to the application.

Following introductions, Mrs J Elliott, Licensing Officer, presented the report on behalf of the Council and in closing informed the committee that the Police had withdrawn their initial objection to the application.

Mrs Smith then stated the case of the objectors, emphasising that the primary objection was to the application for extended opening hours. She said that in the past residents living in close proximity to the premises had witnessed various types of anti social behaviour including fighting, damage to their property and drug abuse and that noise from loud music emanating from the premises had disturbed residents privacy at night. However, she did acknowledge the recent efforts of the licensee in removing certain undesirable elements from the premises and said that over the past two months the nuisance to residents had been reduced.

In addition to this, Mrs Palmer-Barnes said that her street was constantly covered in broken glasses left by customers leaving the premises and added that she was unable to walk her dog or allow her grandchildren to play outside her house for fear they would hurt themselves. She reiterated the view that extending the premises' opening hours would exacerbate the current disruption to residents sleep.

Following questioning of the objectors, Mr Doherty stated the case for the applicant. He said that the licensee was prepared to withdraw the application for extended opening hours in order to satisfy the wishes of the objectors and added that in light of recent meetings between the licensee and local police on the subject of anti-social behaviour emanating from the pub, an internal and external 24-hour CCTV system had been installed. In relation to the objections concerning noise being made by customers drinking on the car park to the premises, he stated that in line with police advice, a set of benches had been purchased which were to be installed and specified as the only area outside of the premises in which drinking would be permitted. It was hoped that this would keep customers and their glasses in one localised place which could be more easily monitored and cleared of glasses when the premises had closed. In closing Mr Doherty confirmed that all doors and windows would from now on be kept closed during entertainment.

Questions were then asked of Mr Doherty and Mrs Dicken by the objectors, members of the Sub-Committee and the Assistant Director of Law and Property. In response to a question concerning problem of noise nuisance resulting from private parties, Mrs Dicken confirmed that if private parties were held at the premises in future, she would make it clear to customers that children were not to be allowed outside and that they must be supervised by a responsible adult at all times. In response to a question from the Assistant Director of Law and Property regarding whether or not the applicant planned to provide regulated entertainment, Mr Doherty explained that at present business on the premises was slow and that consequently he would not rule out using regulated entertainment as a means of attracting new customers in the future.

In summing up, the parties confirmed that they had no further issues to raise. Prior to their withdrawal, the Assistant Director of Law and Property confirmed that, in decision making, the Committee would be considering the application in the light of the complaints and the comments of the parties and that the issue of the application with regard to the hours of entertainment would be looked at in the context of all the written and oral evidence.

The Sub-Committee having made their decision, and following a short adjournment, the parties were invited to return and the Chairman then outlined the decision and the reasons for the decision. The Assistant Director of Law and Property advised the parties of the right of appeal to the Magistrates' Court. Accordingly, it was

RESOLVED

That the application received from John Gaunt and Partners, Solicitors, on behalf of Wolverhampton and Dudley Breweries, to convert an existing licence into a premises licence and to vary the premises licence simultaneously in respect of the Old Park, Middlepark Road, Dudley be approved, subject to the following terms and conditions and based on the reasons indicated:

Variation of Premises Licence

Alcohol

Monday – Saturday	10.00 – 23.00
Sunday	12.00 – 22.30

Bank holidays, Christmas Day and Boxing Day

As per operating schedule (one additional hour for sale of alcohol and regulated entertainment)

Conditions

All conditions set out as in the operating schedule, together with

1. All regulated entertainments shall end at
Monday - Saturday - 23.00
2. All regulated entertainments shall end at
Sunday – 22.30
3. No consumption of alcohol outside premises save for the designated bench area.
4. All doors and windows shall be kept closed during regulated entertainments save for access and egress.
5. All glassware to be cleared from the outside area each evening and before midnight.
6. All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises, and children to be supervised at all times.
7. Signs in the car park to state: - no sounding of horns and to leave the car park quietly, and children to be supervised at all times.
8. All children to be supervised by parents or responsible adults whether inside or outside the premises.
9. Televised sporting events and twenty occasions extensions withdrawn.

We note the licensee's undertaking to speak to the preferred taxi provider(s) and ensure that drivers do not sound their car horns when collecting customers from the premises.

Reasons for decision:

The Sub-Committee is of the opinion that the variation of licence and actions of the licensee in consultation with the police should eliminate many of the problems that have existed historically with these premises. This approach is consistent with the principles contained within the licensing legislation and our licensing policy. However, we recognise the legitimate concerns of the local resident, but we believe that her concerns can be met through the licensing conditions and appropriate enforcement.

We appreciate the efforts made by the licensee and area manager in attempting to solve the problems that have caused nuisance to local residents in the past.

27

APPLICATION TO VARY A PREMISES LICENCE, THE BOWLPLEX,
BIRMINGHAM ROAD, CASTLE GATE PARK, DUDLEY

This item was withdrawn from the agenda.

28

APPLICATION TO VARY A PREMISES LICENCE, THE LUTLEY MILL,
STOURBRIDGE ROAD, HALESOWEN

A report of the Director of Law and Property was submitted on an application received from TLT Solicitors on behalf of Punch Taverns, to convert an existing licence into a premises licence and vary the premises licence simultaneously in respect of the Lutley Mill, Stourbridge Road, Halesowen.

Following introductions, the Legal Advisor outlined the procedure to be followed.

Mr C Morris and Mrs H Clark were in attendance at the meeting as representatives of Punch Taverns.

Mr C Phillips, Senior Licensing Clerk, presented the report on behalf of the Council.

Mr A Allman Senior Environmental Health Officer (Food and Occupational Safety, then presented his evidence as set out in Appendix 2 to the report submitted and informed the Sub-Committee that eleven noise complaints in respect of the premises had been received since 1997. He added however that it was his understanding that live music did not form part of the management's current plans for the premises and that consequently the suggestion, as set out in appendix 2, that a noise limiter be installed was not now relevant.

In response to a question from the Chairman, it was confirmed that planning permission for a large extension to the premises had been received and that construction was currently underway at the site.

Plans of the new building were circulated at the meeting.

Mr Morris then presented the case on behalf of the applicant. He explained that the newly extended, refurbished premises would be food orientated and that the clientele Punch Taverns hoped to attract would reflect this. He said that the atmosphere in the newly opened public house would be totally different to previously and that as a consequence the potential for noise nuisance would be greatly reduced.

In response to questions asked, Mr Morris reiterated that discos and karaoke did not form part of the managements plans for the premises and that the newly extended car park would be lit by lampposts which would face toward the premises as opposed to out on to residential properties. On the issue of external music, it was confirmed that two external dining areas were to be opened onto which it was hoped that incidental music would be played through outdoor speakers.

At this juncture, following comments made by Mrs Elliott, Licensing Officer, the meeting was adjourned temporarily while advice on the legality of considering an application for a premises licence for a building which was not yet completed, was sought. Following confirmation that the application could legally be considered, provided that the premises was not to open until after the new licensing regime came into effect on 24th November, 2005, the meeting was reconvened. In response to a question from the Chairman, Mr Morris confirmed that Punch Taverns did not envisage the premises reopening until early December, 2005.

In response to a question from Councillor Bradney, Mr Allman estimated that the nearest residential properties to the premises were situated approximately 25 metres away.

In summing up, the applicants indicated that there were no further issues to add.

The Sub-Committee having made their decision and, following a short adjournment, the parties were invited to return and the Chairman then outlined the decision and the reasons for the decision. The legal advisor advised the parties of the right of appeal to the Magistrates' Court.

Accordingly, it was

RESOLVED

That the application received from TLT Solicitors on behalf of Punch Taverns, to convert an existing licence into a premises licence and to vary the premises licence simultaneously in respect of the Lutley Mill, Stourbridge Road, Halesowen be approved, subject to the following terms and conditions and based on the reasons indicated:

Variation of Premises Licence

Alcohol, Live and Recorded Music

Monday – Saturday	11.00 – 00.00
Sunday	11.00 – 23.30

Bank Holidays, Christmas Day and Boxing Day

An additional hour every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun and August Bank Holidays.

An additional hour every Thursday, Friday, Saturday, Sunday and Monday for Easter Bank Holiday and every Christmas Eve and Boxing Day.

Conditions

All conditions set out as in the operating schedule, together with

1. All regulated entertainments shall end at

Monday – Saturday – 00.00
Sunday – 23.30
2. The beer garden and external dining areas shall not be used after 23.20 and will be cleared of glassware at that time.
3. All doors and windows will be kept closed during regulated entertainments.
4. There shall be no live or recorded music played outside other than incidental music and shall in any event be discontinued at 23.00.
5. A noise limiting device shall be fitted and used on all power points used in connection with amplification equipment to the satisfaction of the local Environmental Health Officer in consultation with local residents
6. All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.
7. Signs in the car park to state: - no sounding of horns and to leave the car park quietly.

8. Only taxi firms shall be used by the applicants which agree to collect customers from within the premises and avoid sounding of horns.

Reasons for decision

The Sub-Committee is of the opinion that the hours set for the sale of alcohol and regulated entertainment should provide an opportunity for greater flexibility and in turn a reduction in customers leaving the premises in large numbers at a set time with consequent nuisance and associated anti-social behaviour to local residents. This approach is consistent with the principles contained within the licensing legislation and our licensing policy. However, we recognise the legitimate concerns of the local resident, but we believe that her concerns can be met through the licensing conditions and appropriate enforcement.

APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING

A report of the Director of Law and Property was submitted on an application received from Mrs Carol Ann Chawner for the grant of a consent to engage in street trading to sell freshly made doughnuts and hot and cold drinks in Halesowen Town Centre.

The applicant was in attendance along with her husband. Mr D Guy, Regeneration Manager, was in attendance representing the Halesowen Town Centre Manager on behalf of the Directorate of the Urban Environment.

Mrs Elliott presented the report on behalf of the Council.

Mrs Chawner then spoke on her application and outlined the nature of the trading she wished to gain consent to conduct and circulated pictures of the two mobile kiosks she owned in partnership with her husband.

In relation to the papers which had been circulated prior to the hearing, the Chairman commented that the pictures of the space where the applicant wished to put her kiosk were inadequate and did not provide Members of the Sub-Committee with an idea of the physical proportions of the area. He asked that prior to future hearings of this nature plan view drawings be circulated in order to give a better perspective.

The Regeneration Manager then set out the concerns regarding the application on behalf of the Town Centre Manager. These were that positioning the kiosk in the desired place would obstruct the flow of foot traffic in the area by blocking off a busy pedestrian route and that businesses whose shop fronts were obscured from view by the vehicle would be damaged as a result. He also expressed concern that other businesses in the vicinity offering similar products could be damaged by the extra competition with the doughnut kiosk.

The Chairman enquired as to whether or not alternative sites were available in Halesowen Town Centre. In responding, the applicant said that in her view two other suitable sites were available just out of the range of the photographs which had been circulated to the Sub-Committee. These sites were situated in between lampposts in the centre of Halesowen High Street.

Councillor Ms Craigie questioned the objections of the Town Centre Manager. She commented that stalls from the French Market which was held in Halesowen Town Centre blocked several businesses front windows and they were allowed to trade. She added that the businesses the Town Centre Manager expressed concern for in his written objections did not sell the same type of goods as the kiosk and therefore would not be in direct competition with the street traders.

Councillor Bradney enquired as to whether it was envisaged that the kiosk would inwards towards the shop fronts or outwards into the street. The applicant confirmed that the kiosk would face out into the street.

At the close of questions and following a short adjournment, the parties were invited to return and the Chairman then outlined the decision.

Accordingly, it was

RESOLVED

That the application received from Mrs Carol Anne Chawner for the grant of a Street Trading Consent to trade in Halesowen Town Centre be granted on this site, with the recommendation that discussions take place with the Town Centre Manager, the Directorate of the Urban Environment, to determine a possible alternative location at a future date and that the Director of Law and Property be authorised approve a suitable alternative position when identified.

The meeting ended at 4.35 pm.

CHAIRMAN