

LICENSING SUB-COMMITTEE 4

Tuesday 19th April, 2011 at 10.00 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Taylor (Chairman)
Councillors A Finch and Ryder

Officers

Mr R Clark (Legal Advisor), Mrs J Elliott (Licensing Officer) and Ms K Farrington – All Directorate of Corporate Resources.

15 APOLOGY FOR ABSENCE

An apology for absence from the meeting was submitted on behalf of Councillor Mrs Roberts.

16 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that Councillor Ryder had been appointed as a substitute member for Councillor Mrs Roberts for this meeting of the Sub-Committee only.

17 DECLARATIONS OF INTEREST

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

18 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 15th March, 2011, be approved as a correct record and signed.

APPLICATION TO VARY A PREMISES LICENCE – MURCO
COSTCUTTER EXPRESS, NETHERTON SERVICE STATION,
HALESOWEN ROAD, NETHERTON, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for variation of the premises licence in respect of Murco Costcutter Express, Netherton Service Station, Halesowen Road, Netherton, Dudley.

Mr Mitchner, Licensing Practitioner at Murco Petroleum Limited was in attendance at the meeting. It was noted that the Designated Premises Supervisor was not in attendance at the meeting due to him being audited.

Following introductions, the Chairman outlined the procedure to be followed.

Mrs J Elliott, Licensing Officer, presented the report on behalf of the Council. Following the report, she informed the Sub-Committee that a letter objecting to the variation of the premises licence had been received from a resident, who was not in attendance at the meeting.

Ms Nellany then presented the representations of Food and Occupational Safety as indicated in Appendix 2 to the report submitted. She indicated that the grounds for representations related to the complaints of alleged noise nuisance from stereos being played by customers' vehicles on the petrol station forecourt. She stated that by allowing the extension of alcohol sales and late night refreshments could potentially increase the volume of traffic visiting the premises at unsociable hours and resulting in an increase in anti-social behaviour. She further stated that the premises was located on a main road, opposite residential properties and reported that over a number of years, a constant trickle of complaints had been received relating to early morning deliveries and noise nuisance and anti-social behaviour from customers using the forecourt. She indicated that her main concern, if the application was approved was that an increased number of customers would be attracted to the premises exacerbating the problems currently occurring.

In concluding, Ms Nellany reported that Murco Petroleum Limited had always been co-operative when notified of any complaints and as a result, an informal agreement had been established that stipulated that deliveries would not be made to the premises until after 7.00am. Signage advising customers to turn off audio equipment whilst using the forecourt had also been erected.

In clarifying a query from a Member, Ms Nellany confirmed that since February 2009 when Murco Petroleum Limited had taken over the control of the premises, five complaints had been received. Three complaints were in relation to alleged noise from rowdy customers and two related to early morning deliveries.

In responding to a number of questions in relation to the five complaints received since February, 2009, Ms Nellany indicated that there had been no indication that the complaints received in relation to noise nuisance and anti-social behaviour had been alcohol fuelled related disturbance and confirmed that all five complaints had been made by the same resident who resided at a property opposite the premises.

In responding to a question from Mr Mitchner, Ms Nellany stated that the times the complaints had been lodged had not been recorded except for one, which had been in relation to early morning deliveries to the premises at 5.30am.

Mr Mitchner then presented the case on behalf of the applicant, and in doing so indicated that the business had been established for many years. He informed the Sub-Committee that the nature of the application had been to extend the hours for the sale of alcohol and to add the provision of late night refreshments on a licence that had already been permitted for the 24 hour sale of fuel. He stated that no agencies, other than Food and Occupational Health, had made any representations in relation to the application and only one resident had objected to the extension of the sale of alcohol and the provision of late night refreshments, which in his opinion, was not sufficient evidence on which to refuse the application. He described the area in which the establishment was located as a mixed area comprising residential properties and a number of warehouses and again re-iterated that only one resident in the vicinity of the premises had submitted an objection.

In referring to the representations of Food and Occupational Health, Mr Mitchner indicated that the three complaints received in relation to noise nuisance from customers using car stereos were not directed towards the licensable activities of the premises and therefore the Sub-Committee had no reason to believe that the premises was operating outside the control of the current conditions of the licence.

Mr Mitchner continued by informing the Sub-Committee that Murco Petroleum Limited, together with the Designated Premises Supervisor had put in place measures to help control noise nuisance and anti-social behaviour. He particularly referred to notices that had been erected advising customers to leave the premises quietly and the provision of waste containers located on the forecourt to discard rubbish.

He then indicated that all staff at the premises were fully trained in the sale of alcohol and that training consisted of a written test and refresher training every six months. A Challenge 21 Policy was in operation and signage had been erected publicising the policy and CCTV was also in operation at all times.

In concluding, Mr Mitchner assured the Sub-Committee that the Designated Premises Supervisor was committed to operating the premises successfully, together with the support of the local residents and confirmed that Murco Petroleum Limited and the Designated Premises Supervisor would continue to do everything possible to combat noise nuisance and anti-social behaviour. In view of the comments made above, Mr Mitchner suggested that the Sub-Committee approve the application.

In responding to a question from a Member in relation to the volume of customers between 6.00pm and 11.00pm at the premises, Mr Mitchner indicated that he could not answer that specific question, however, he stated that he had his own store and confirmed that the majority of his business was during those hours.

In responding to a question in relation to hot food, Mr Mitchner confirmed that if the application was successful, hot pasties and sausage rolls would be on sale for customers, however he stated that the microwave and coffee machine would be located behind the counter and only for use by staff.

In responding to questions in relation the number of staff that operated the premises during the late evening and early hours of the morning, Mr Mitchner confirmed that only one member of staff operated the premises during those times. He stated that regular risk assessments were carried out to assess the health and safety of the staff and assured the Sub-Committee that the safety of their staff was paramount. He indicated that discretionary access was operated at the premises during the unsociable hours and if the member of staff felt intimidated by a particular customer, the doors could be locked by a switch of a button and the window facility would have to be used. Mr Mitchner clarified that staff were not expected to leave the premises at any time to resolve any nuisance on the forecourt and stated that the tannoy system was to be used instead.

The Legal Advisor drew attention to the information contained in the operating schedule part (P) of the form submitted to the meeting which outlined additional steps Murco Petroleum Limited and the Designated Premises Supervisor intended to take to promote the licensing objectives as a result of the proposed variation and asked Mr Mitchner if he had any objection to formally attaching the information as conditions on the licence if the application was successful. In responding, Mr Mitchner confirmed that he had no objection and welcomed any conditions the Sub-Committee felt appropriate to be attached to the licence.

In summing up, Mr Mitchner reported that there had been no evidence to suggest that approval to the application would impact on the licensing objectives and increase anti-social behaviour. He stated that no Police objections had been received and only one resident had made complaints since February, 2009. However, he indicated that if the fears of Ms Nellany and the resident were fulfilled, under the licensing laws, there was a remedy in that the applicant could be brought back to the Sub-Committee for review.

The Sub-Committee, having made their decision, invited the parties to return and the Chairman then outlined the decision.

That the application received for variation of the premises licence in respect of Murco Costcutter Express, Netherton Service Station, Halesowen Road, Netherton, Dudley, be approved, subject to the following conditions:-

Monday – Sunday	00.00 – 24.00
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Monday – Sunday 00.00 – 05.00
23.00 – 24.00

- LSBC4/13

REASON FOR DECISION

This is an application for variation of a premises licence to extend the time for alcohol sales to 24 hours a day everyday and late night refreshments to 23.00 – 24.00 and 00.00 – 05.00 each day.

There have been no representations from the Police. Environmental Health has made representations based on the prevention of nuisance. The evidence is agreed that there have been five complaints since February 2009, two relating to noise from early deliveries (which Murco has dealt with by agreeing that all deliveries will be after 07.00) and three relating to noise and stereo nuisance. The Sub-Committee finds that this is not a significant number of complaints in two years and that these complaints have not been shown to relate to a licensable activity.

20

APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING IN STOURBRIDGE TOWN CENTRE

A report of the Director of Corporate Resources was submitted on an application for the consent to engage in street trading in Stourbridge Town Centre.

Prior to the hearing, Councillor Ryder indicated that Mr Davis had mentioned to him that he would be submitting an application for consent to engage in street trading, however he confirmed that no further discussion took place in view of him being a Member of Licensing Sub-Committee.

Mr C M Davis, Applicant, was in attendance at the meeting. Also in attendance was Ms H Rogers, Stourbridge Town Centre Manager, whose written representations were outlined in Appendix 2 of the submitted report.

Following introductions, the Chairman outlined the procedure to be followed.

Mrs J Elliott, Licensing Officer, presented the report on behalf of the Council.

Ms Rogers expanded on her comments made at Appendix 2 to the report submitted, and in doing so, expressed support for the application, however, she confirmed that the Farmers Market would be trading in Coventry Street, Stourbridge on the 1st and 3rd Saturday in each month and suggested that Mr Davis consider trading on the 2nd, 4th and 5th (if applicable) Saturday in each month. In responding, Mr Davis indicated that trade had been very poor at his current location and confirmed that he would agree to the suggestion of the Town Centre Manager.

The Licensing Officer indicated that, if the Sub-Committee was minded to approve the application to trade in Coventry Street, Mr Davis surrender his current licence to trade in Foster Street, prior to the new licence being issued. Mr Davis reported that he would be willing to surrender his current licence.

RESOLVED

That following careful consideration, the application made by Mr Davis, for the grant of a consent to engage in street trading at a site in Coventry Street, Stourbridge, on the 2nd, 4th and 5th (if applicable) Saturday in each month and every Thursday, be approved.

The meeting ended at 11.30am.

CHAIRMAN