

LICENSING SUB-COMMITTEE 1

Tuesday, 4th November, 2008 at 10.10am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors Nottingham and Taylor

Officers

Ms N Bangar (Legal Advisor), Mrs J Elliott (Licensing Officer) and Ms H Shepherd (Directorate of Law and Property)

16 APOLOGY FOR ABSENCE

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

17 APPOINTMENT OF SUBSTITUTE MEMBER

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

18 DECLARATIONS OF INTEREST

No member declared an interest in accordance with the Members' Code of Conduct.

19 MINUTES

RESOLVED

That the Minutes of the Meeting of the Sub Committee held on 30th September 2008, be approved as a correct record and signed.

20 CHANGE OF ORDER OF BUSINESS

Pursuant to Council Procedure Rule 13(c), it was agreed that the remaining items of business be dealt with in the following order: -

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EXCLUSION OF THE PUBLIC

RESOLVED

That the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Local Government Act, 1972, as indicated below; and that in all the circumstances, the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption from disclosure.

Description of Item

Relevant Paragraph of
Part 1 of Schedule 12A

Application to vary and transfer a Premises
Licence – Mr BSU

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APPLICATION TO VARY AND TRANSFER A PREMISES LICENCE –
MR BSU

A report of the Director of Law and Property was submitted on applications received from Mr BSU to vary a premises licence so as to certify himself as the Designated Premises Supervisor and for the transfer of the Premises Licence into his name.

Mr BSU was in attendance together with his father and a Mr C Gammon his legal representative. Also in attendance was PC Smith, West Midlands Police, who had objected to the applications in the terms outlined in Appendix 3 of the submitted report.

The Chairman outlined the procedure to be followed and the Licensing Officer then read out the content of the report submitted.

PC Smith outlined the reasons for the objection submitted by West Midlands Police and in doing so informed the Sub Committee of test purchase exercises which had taken place where lager and cider had been sold by the applicant or members of his family to under age drinkers. Details of costs and fines awarded against the persons concerned following their appearances at Dudley Magistrates Court hearings were given. Details were also given of test purchases exercises at which no sales of alcohol had been made. These events covered the period from October 2005 to August 2008.

Arising from the representations made by PC Smith questions were asked by Mr Gammon. It was stated that all incidences being referred to had happened whilst the premises were under the supervision of the current Designated Premises Supervisor. Since both the applicant and his father had obtained their Personal Licences, a better awareness of the Licensing Act 2003 and procedures had been gained.

Mr Gammon then questioned Mr BSU in relation to the current day-to-day running of the shop and the changes and improvements that had been put into force. The Sub Committee were informed that all staff working within the premises were aware of the relevant and appropriate procedures to which they must adhere to and that the current Designated Premises Supervisor no longer had an interest in the business.

Following the evidence given and the questioning of Mr BSU, both parties were given the opportunity to have their final say with regards to the application.

The parties then withdrew from the meeting in order to enable the Sub Committee to determine the application.

Following detailed discussion, the Sub Committee, having made their decision, the parties were invited to return and the Chairman then outlined the decision.

RESOLVED

That, following careful consideration of the information contained in the report submitted and as reported at the meeting, the applications to transfer the Premises Licence and vary the licence to specify Mr BSU as the Designated Premises Supervisor be granted.

Reasons for Decision

Having heard about the problems with the premises under the previous Designated Premises Supervisor, we are satisfied that Mr BSU has done enough by obtaining a Personal Licence, going on the training course, providing training for his staff and having the appropriate signage in place to safeguard any concerns.

We would wish for a condition to be attached to this licence, this being to enforce the Challenge 21 initiative encouraging the seller to seek proof of age from anybody who appears to be under the age of 21.

This decision is to have immediate effect.

APPLICATION TO VARY A PREMISES LICENCE – THE OLD COURT HOUSE, 55 HIGH STREET, KINGSWINFORD.

A report of the Director of Law and Property was submitted on an application received from Flint Bishop, Solicitors, on behalf of Alastair James Donson, to vary the premises licence in respect of The Old Court House, 55 High Street, Kingswinford.

The applicant, Mr Donson, was in attendance.

Also in attendance and objecting the application were Mr and Mrs Bull, D. Bennett, A. Southwick, K. Simpson, P. Westwood, E. Pugh-Wilkes and D. Homer. It was noted that three letters of objection and a petition consisting of forty-two signatures had also been received from residents, which had been circulated to the Sub Committee prior to the meeting.

The Chairman outlined the procedure to be followed and the Licensing Officer then read out the content of the report submitted and informed the Sub Committee of the operating hours of the surrounding public houses.

Before discussions commenced, the Chairman asked the objectors if they had notified Mr Donson of their objections. Their response was that they had not.

The objectors expressed their concerns regarding the noise disruption and nuisance that this application would have to the residents of the area, and the disturbance issue that they were already experiencing from the surrounding facilities. Concerns were also raised about the property being situated on a blind bend, where visibility is sometimes obstructed and accidents at the site had happened in the past.

The chairman asked Mr Donson if he was aware of any such incidents being caused by people arriving and departing from the premises. He confirmed that he was not aware any such accidents. Residents within the vicinity were also concerned that the new operating hours would depreciate the value of their properties.

Mr Donson was then given the opportunity to speak, and clarify some of the concerns raised by the objectors. He considered that there had been a misunderstanding by the residents as to what exactly it was he wanted to do. The premises would be promoted as a restaurant and live music would be occasional and appropriate to the theme. The extension of the operating open hours would only be for special occasions and for when large parties would be attending. Mr Donson circulated to all a portfolio of his intentions.

The Chairman commented that some of these objections could have been resolved if those objecting had contacted Mr Donson before hand or vice versa.

Following comments from both sides, the Legal Advisor stated that in line with a recent matter before the courts, the Committee could consider the fact that the local residents were aware that a public house existed within the vicinity of their premises when they moved into the area and that it was 'the nature of things' that the business at licensed premises changed over time.

The parties then withdrew from the meeting in order to enable the Sub Committee to determine the application.

Following detailed discussion, the Sub Committee, having made their decision, the parties were invited to return and the Chairman then outlined the decision.

RESOLVED

That, following careful consideration of the information contained within the report submitted and as reported at the meeting, the application to vary the premises licence in respect of The Old Court House, 55 High Street, Kingswinford, be granted.

Once the alterations have taken place the following will become effective as of 4th December 2008: -

To extend the current opening hours for the playing of recorded music, making music and sale of alcohol to: -

Sunday – Thursday 10.00 – 24.00
Friday – Saturday 10.00 – 01.00

To extend the current operating hours for late night refreshment to: -

Sunday – Thursday 23.00 – 24.00hrs
Friday – Saturday 23.00 – 01.00hrs

Bank Holiday Sunday until 01.00

24th and 26th December until 01.00

New Years Eve – End of permitted hours New Years Eve to start of permitted hours New Years Day.

Christmas Day – as per the day it falls.

Reasons for Decision

Whilst the concern raised by the residents have been carefully considered, we are satisfied that by attaching the following conditions to the licence that the concerns will be appropriately addressed:

- Signage in the car park re keeping noise to a minimum and being considerate to the local residents by leaving the car park quietly.
- A noise limiter to be fitted into the premises. The level is to be set by Environmental Health in consultation with the licensee and the nearest residents to the premises.
- All outer doors to be fitted with self-closing devices where appropriate and for the doors to remain closed during the playing of live music.

These conditions to be put into place in consultation with the local authority.

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APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING –
MR CHRISTOPHER MAURICE DAVIS – COVENTRY STREET,
STOURBRIDGE.

A report of the Director of Law and Property was submitted on an application made on behalf of Mr Christopher Maurice Davis for the grant of a consent to engage in street trading at a site in Coventry Street, Stourbridge.

Mr Davis was in attendance at the meeting.

Also in attendance, objecting to the application was Alan Radford, Technician Engineer, Directorate of the Urban Environment. It was noted that three other objections had been received, which had been circulated to the Sub Committee prior to the meeting. Hannah Rogers, Town Centre Manager, Directorate of Urban Environment sent her apologies for not being able to attend.

The Chairman outlined the procedure to be followed and the Licensing Officer then read out the content of the report submitted.

Alan Radford then informed the Sub Committee of his concerns that there would be a second street trader within the requested area, especially with the substantial renovation work that was taking place at the adjacent building and with the possibility of the renovation of the Crown Centre. He also considered that the increased footfall could have potential implications especially as the area was open to emergency vehicles. It was also stated that the farmers market also used the area and having a permanent trader could have an effect on this.

Clarification as to the exact days and times of trade was sought by the Sub Committee, as this had not been stated on the application.

Mr Davis informed the Committee that he would wish to trade on Wednesday's only from 8.00am to 4.00pm. The applicant also stated that the Farmers Market was held on Saturday's and therefore there would have been no impact. With regards to the area being open to emergency vehicles, Mr Davis asked why in that case were there bollards blocking access.

Mr Radford responded to this latter point, informing the Sub Committee that temporary bollards were fitted and opened as and when required.

The Chairman then asked Mr Davis to explain his reason for the application. In response he stated that he wanted to provide a service to the people of Stourbridge, and as the previous fish mongers shop had closed, thought this would be the perfect opportunity. He also informed the Sub Committee that he had looked at various locations within Stourbridge High Street, however, this particular site was the only area that had access to an electricity point.

The parties were then asked to withdraw from the meeting in order to enable the Sub Committee to determine the application.

Following detailed discussion, the Sub Committee, having made their decision, the parties were invited to return and the Chairman then outlined the decision.

RESOLVED

That, following careful consideration of the information contained within the report and as reported at the meeting, the application made for the grant of consent to engage in Street Trading at a site in Coventry Street, Stourbridge be granted.

Reasons for Decision

It is noted that the application is for one day a week, namely on a Wednesday between the hours of 8.00 am and 4.00 pm.

Whilst the objections have been carefully considered, we are satisfied that any potential obstruction to pedestrian traffic would be minimal.

The meeting ended at 12.55 pm

CHAIRMAN