

LICENSING SUB-COMMITTEE 1

Wednesday 10th August, 2011 at 10.00am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors K Finch and J Woodall

Officers

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

1. APOLOGY FOR ABSENCE

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

2. APPOINTMENT OF SUBSTITUTE MEMBER

It was noted that Councillor J Woodall had been appointed as a substitute member for Councillor Mrs Billingham, for this meeting of the Sub-Committee only.

3. DECLARATIONS OF INTEREST

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

4. MINUTES

RESOLVED

That the minutes of the meeting held on 29th March, 2011, be approved as a correct record and signed.

5. APPLICATION TO VARY A PREMISES LICENCE – SNAX 24 LIMITED, DUDLEY ROAD, KINGSWINFORD

A report of the Director of Corporate Resources was submitted on an application received from Winckworth Sherwood, Solicitors, on behalf of Snax 24 Limited for the variation of the premises licence in respect of Snax 24, Dudley Road, Kingswinford.

Ms S Kada, Solicitor, Mr P Suchodolski, Health and Safety Compliance Manager for Snax 24 Limited, Mr Manda, Duty Manager of Snax 24 and Mr D Hawkins, Operations Manager for Snax 24, were in attendance at the meeting.

Also in attendance were Councillors Blood and P Harley, on behalf of their constituents, together with Mr A Turner, from the Express and Star Newspaper.

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

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

Councillor Blood presented his objections and in doing so, indicated that the problems already associated with crime and disorder in and around the Kingswinford area would be exacerbated and believed that it would not be in the interest of public safety to approve the application. He stated that individuals would be able to purchase alcohol from Snax 24 after public houses had ceased serving, resulting in an increased number of customers and traffic and in his opinion would generate noise nuisance and anti-social behaviour in the vicinity causing disturbance to nearby peaceful estates. In concluding, Councillor Blood indicated that no other licensed establishment in the locality had a licence to operate 24 hours a day and requested that the Sub-Committee refuse the application.

Councillor P Harley then presented his objections and indicated that he had received a number of complaints in relation to youths congregating on car parks in the vicinity of Snax 24, causing noise nuisance and stated that if the application was approved, the problems already occurring with anti-social behaviour would increase.

Ms Kada then presented the case on behalf of the applicant, and in doing so indicated that Snax 24 Limited had been operating a number of stores around the Country successfully for 13 years and was considered to be a well-managed and responsible retailer. She then described the organisational structure of the premises and stated that Area Managers visited the premises every two months to ensure that the Company's processes were being fully implemented. She stated that the founder of Snax 24 Limited also had an involvement in the management and running of all the stores and visited them approximately every six weeks. She informed the Sub-Committee that the nature of the application had been to extend the hours for the sale of alcohol on a licence that had already been permitted for the 24-hour sale of fuel and other available products. The application also requested that all mandatory conditions set out at paragraph 7 of the report submitted to the meeting be removed, as these conditions were not relevant to Snax 24 Limited.

In relation to the representations from Councillors regarding anti-social behaviour currently occurring in the Kingswinford area, Ms Kada confirmed that there had been no evidence that the problems concerning noise nuisance or alcohol associated anti-social behaviour had been connected to customers of Snax 24. She also highlighted that no objections had been received by the Police or any other responsible authorities in relation to the application. She mentioned that Police did visit the premises from time to time to refuel their vehicles and to purchase hot refreshments only.

In continuing, Ms Kada informed the Sub-Committee that the Company operated a Challenge 25 Policy and stated that unless the till operator was completely confident that the customer looked at least 25, proof of age would be requested and if identification could not be provided by the customer, the sale would be refused. This highlighted the fact that during the 13 years Snax 24 Limited had been in operation, no failed test purchases had been recorded. She stated that all staff had been trained on the Challenge 25 Policy and refresher training was carried out every six months. Signage promoting the Challenge 25 Policy was clearly visible from inside the premises. Ms Kada also indicated that Snax 24 operated a refusal and challenge logbook, which recorded all refusals of age restricted products and was regularly checked and signed by the management of the store and the Area Manager.

Ms Kada then referred to the operating schedule and stated that Snax 24 Limited had outlined a number of conditions, which the Sub-Committee may wish to consider attaching to the licence, with particular reference to the installation of CCTV, should the application be approved. She stated that Snax 24 wished to work with the local community in making the business a success.

In concluding, Ms Kada indicated that if the application was approved, there would be no issues in relation to noise nuisance and anti-social behaviour as there had been no evidence that such problems were being experienced at present at the premises, which was already operating a 24-hour licence. However, she indicated that if the fears of the local Councillors and residents were fulfilled, under the licensing laws, there was a remedy in that the application could be brought back to the Sub-Committee for review.

A question was received from a Member in relation to whether it was necessary to extend the licensing hours to cover the 24-hour sale of alcohol as the establishment had been operating successfully for 13 years. In responding, Ms Kada stated that the Company had considered the issue prior to submitting an application, however, she indicated that there was a demand for the sale of alcohol after 11.00pm and Snax 24 Limited wished to provide that facility to the whole of the community.

In responding to a question in relation to the number of staff that were on duty at the store between 12 midnight and 6.00am, Ms Kada confirmed that only one person operated the premises during those hours, however, there was a lock mechanism attached to the entry door, controlled by a switch located by the till which could be activated if the staff member felt at risk of personal attack. However, she stated that doors usually remained open to the public for customers to enter the premises to use the microwave facility to warm up pies and also to use the tea and coffee vending machine.

In responding to a further question, Ms Kada confirmed that a steady flow of customers using vehicles visited the premises, mainly to purchase hot refreshments, during the early hours of the morning.

In summing up, Councillor Blood indicated that the hours applied for to sell alcohol were inappropriate and stated that the problems currently affecting the area in relation to noise nuisance and anti-social behaviour would be exacerbated.

In summing up, Councillor P Harley re-iterated that there were no other establishments in the vicinity that operated a 24-hour licence for the sale of alcohol.

In summing up, Ms Kada reported that Snax 24 Limited was a well managed and responsible retailer and that there had been no evidence to suggest that approval of the application would impact on the licensing objectives and increase anti-social behaviour.

Following comments from both sides, the Legal Advisor stated that the Sub-Committee would determine the application made from Snax 24 Limited on the information and comments made at the meeting by all parties.

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

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

RESOLVED

That the application received for the variation of the premises licence in respect of Snax 24, Dudley Road, Kingswinford, be approved, subject to the following conditions:-

Sale of Alcohol

Monday – Sunday	00.00 – 24.00
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- The removal of all the mandatory conditions in the “Annex-Mandatory Conditions”, under the following heading:-
 - (a) Mandatory condition: Exhibition of films
 - (b) Mandatory condition: Door supervision
 - (c) Applies to premises where licence authorises supply of alcohol on the premises

- The removal of condition (a) in the “Annex-Conditions consistent with the Operating Schedule”, which read as follows:-

General all four licensing objectives

The plan which forms part of the premises licence indicates the proposed position for the display and storage of alcohol

- The removal of the following condition annexed to the licence:-

Unless otherwise specified in the terms and conditions attached, this licence is also subject to any restrictions currently in force under the following enactment:-

- Licensing Act 1964
- Children and Young Person Act 1955
- Cinematography (Safety) Regulations 1955
- Sporting Events (Control of Alcohol) Act 1985

Conditions

- (1) The existing conditions on the premises licence to remain unchanged.
- (2) A CCTV system to be installed, or the existing system maintained, such system to be fit for the purpose.
- (3) The CCTV system to be capable of producing immediate copies of recordings on site. Copies of recordings to be recorded on to CD/DVD or other equivalent medium.
- (4) Any recording to be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.

- (5) The CCTV system to incorporate a camera covering the entrance door and the alcohol display areas and to be capable of providing an image, which is regarded as identification standard. The precise positioning of the cameras may be agreed, subject to compliance with Data Protection legislation, with the Police from time to time.
- (6) The system to display, on any recording, the correct time and date of the recording.
- (7) A system to be in place to maintain the quality of the recorded image.
- (8) The CCTV system to be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.
- (9) The applicant, at all times, to maintain adequate levels of staff. Such levels to be disclosed on request, to the Licensing authority and Police.
- (10) Adequate waste receptacles for use by customers to be provided in and immediately outside the premises.
- (11) The Premises Licence Holder to ensure that an age verification policy is applied to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 (or older if the licence holder so elects) to produce (before being sold alcohol) identification bearing their photograph, date of birth and a holographic mark.

Reason for the Decision

The Sub-Committee has listened to representations from Ward Councillors relating to the risk of anti-social behaviour, caused by the purchase of alcohol from the site, if the application to vary is granted. The Sub-Committee is sympathetic to these concerns.

Having had no other representations from the Police, Environmental Health or other relevant body, and not having heard evidence of any alcohol related problems directly linked to the premises, the Sub-Committee grants the variation in hours for the sale of alcohol.

The Sub-Committee also grants the application to remove the mandatory conditions set out above and accepts that these are not relevant to this type of premises. The conditions set out in the new operating schedule will now form part of the licence.

6. APPLICATION FOR REVIEW OF A PREMISES LICENCE – PAINTERS ARMS, AVENUE ROAD, COSELEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of the Painters Arms, Avenue Road, Coseley.

Mr D Woollam, Manager of the Painters Arms, Mr G Watkins, Premises Licence Holder of the Painters Arms and Mr M Pearce, Representative, were in attendance at the meeting.

Also in attendance were PC D Smith, Licensing Officer for West Midlands Police, Mr B Hughes, Enforcement Officer, Ms D Nellany, Food and Occupational Safety Manager, Mr K Round, Community Safety and Witnessing Officer and Ms J Lawrence, resident, together with three observers and Mr A Turner from the Express and Star Newspaper.

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

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

Ms Nellany presented the representations of Food and Occupational Safety and in doing so indicated that the ground for review had been based on the undermining of the licensing objective for the prevention of public nuisance. She stated that Mr Hawkins, Premises Licence Holder had been unable to manage noise associated with regulated entertainment and informed the Sub-Committee that he had been observed allowing regulated entertainment after the permitted hour of 11.00pm on two separate occasions.

Ms Nellany indicated that the premises was in very close proximity to residential properties in Avenue Road and Penwood Gardens and stated that Environmental Health Officers had been investigating numerous noise complaints since Mr Hawkins had taken over the premises licence in 2009. She confirmed that a total number of twenty-seven complaints had been received since January, 2010, predominately relating to loud music from regulated entertainment. The majority of complaints had been made by one resident who had been keeping a log of incidents relating to the premises arising from advice given to her by Environmental Health and Safety Officers. Copies of all complaints received were circulated to all parties prior to the meeting.

Ms Nellany indicated that the complainant had been referred to the Council's Community Safety Witnessing Team in the Anti-Social Behaviour Unit in March, 2010, and confirmed that between November, 2010 and May, 2011, the complainant had contacted the out of hours team on twelve separate occasions. Due to the limited resources available at the time the complaints had been received, Council Officers made visits to the vicinity of Painters Arms on six occasions and on three of the six occasions, visits were made to the complainant's property.

On 12th December 2010, a complaint had been received at 00:30 hours and a visit was made by Mr Round, Community Safety and Witnessing Officer at 01:10 hours. It was reported that music had ceased, however, customers had been leaving the premises and approximately six cars had been parked on the car park. Mr Round observed the premises for approximately fifteen minutes and during that time, three taxis had arrived, one sounding its horn to attract customers.

On 11th January, 2011, following a complaint, Mr Round visited the vicinity of the premises at 23:50 hours and observed for approximately twenty minutes. On that occasion, music had been audible at a low level during egress from a side door and it was reported that no Temporary Event Notice had been in place on that date.

On 3rd February, 2011, a visit had been made to the complainant's property, following a complaint received at approximately 12 midnight where it was witnessed that very low music was audible with the bedroom window open. On that occasion, a Temporary Event Notice had been in place. Further visits had been made to the complainant's premises on 19th February, 2011 at 23:10 hours and on 5th March, 2011 at 22:05 hours. On these occasions, very low bass music could be heard from inside the premises. It was reported, however, that a Temporary Event Notice had been in place on 19th February, 2011 permitting recorded music until 12 midnight.

Finally, on 14th May, 2011, a noise complaint had been received at 22:45 hours, however a visit could not be made until 00.30 hours at which time, the alleged music being complained about had ceased. Ms Nellany reported that during the six visits made by Council Officers, evidence had been presented which indicated that Mr Watkins had breached his current premises licence on four separate occasions.

Ms Nellany then referred briefly to the historic problems associated with the Painters Arms in relation to noise complaints dating back to 2002. She confirmed that twenty-two complaints had been received between 2002 and 2007 by six different complainants relating to loud music, barking dogs and noise relating to patrons using the car park and leaving the premises. However, she indicated that for the purposes of the application, only complaints received since Mr Watkins had taken over as Premises Licence Holder would be used to support the application.

Ms Nellany then referred to Ms Lawrence's statement in which she stated that she had been unable to sleep, worrying in the middle of the week as to what would happen on the weekend, having to barricade herself in her home, all supported by evidence recorded in the log sheets she had maintained.

In concluding, Ms Nellany indicated that correspondence had been sent to Mr Watkins in relation to the complaints received and to inform him that investigations would be carried out in relation to the alleged noise complaints in January, February, March, June, August, September, December 2010 and April 2011. A number of discussions had also taken place with Environmental Health Officers and Mr Watkins and his staff at the premises since June 2010 in relation to the noise complaints received. It was also noted that Mr B Hughes, Licensing Enforcement Officer had visited the premises in November 2010 to discuss the conditions of Mr Watkins' premises licence. However, despite numerous attempts to resolve the situation, Mr Watkins had made no effort to comply with the current conditions of his premises licence. Ms Nellany indicated that should the Sub-Committee not be minded to suspend or revoke Mr Watkins' premises licence, they consider excluding the licensable activity of recorded music from the premises licence or alternatively attach further conditions to the licence to prevent the problems re-occurring.

PC D Smith then presented the representations of West Midlands Police and in doing so indicated that the representations had been made based on the undermining of the Crime and Disorder licensing objective. He stated that following a complaint received on 27th May 2011, he had attended the Painters Arms, along with Mr B Hughes, Licensing Enforcement Officer at 23:20 hours and witnessed a disco taking place, with a DJ and lights set up, outside the permitted licensing hours. He also stated that customers had also been consuming alcohol outside the premises, which was also a breach of Mr Watkins' premises licence. PC Smith indicated that a discussion had then taken place with Mr Woollam, Manager of the Painters Arms, in relation to the complaints received and he had been informed that he had been in breach of his premises licence and following investigations, could possibly be prosecuted for the offences. Mr Woollam indicated that he had thought that his premises licence permitted entertainment until 11:30 hours and immediately ended the disco and asked customers consuming alcohol outside to return inside the premises. PC Smith also stated that when asked to provide sight of a copy of the licence summary, which should be displayed at the premises, Mr Woollam indicated that it had been taken down and that he had been unable to locate it.

PC Smith then informed the Sub-Committee of a further breach of the premises licence. He stated that on 3rd June, 2011, at approximately 21:10 hours he visited the premises where once again, a disco had been taking place. On entry to the premises, he reported that approximately six customers had been outside the premises consuming alcohol. He also reported that in the area in which the disco had been taking place, a large area had been formed with chairs and tables around the perimeter to create an open space to encourage customers to use the area as a dance floor. Mr Woollam had been managing the premises on that date and during a discussion, PC Smith reported that a female entered the open space and began to dance. He indicated that he had reminded Mr Woollam that such activities were not permitted on his current premises licence. In relation to customers consuming alcohol outside the premises, Mr Woollam had indicated that he had been unable to prevent people taking alcoholic drinks outside the premises. In responding, PC Smith explained that it was a condition of the premises licence, which he had to comply with.

In concluding, PC Smith indicated that a total number of ten complaints had been reported to the Police between January 2011 and May 2011, all relating to loud music emanating from the Painters Arms. Copies of the incident reports had been circulated to all parties prior to the meeting.

Mr Hughes, Licensing Enforcement Officer then informed the Sub-Committee that on 16th March, 2010 he attended the Painters Arms, following complaints received from residents and spoke to a Mrs Hayden, who had been managing the premises on behalf of Mr Watkins. He stated that he had informed Mrs Hayden that the complaints had been in relation to loud music occurring after the permitted licensing hours of 23:00 hours. He confirmed that a letter outlining the reason for the visit and the discussion that had taken place with Mrs Hayden had been sent to Mr Watkins on 16th March, 2010.

Mr Hughes indicated that following further complaints received, he again visited the premises on 17th June, 2010 and had noticed that a seating area had been created at the side of the public house, which consisted of two unfixed concrete benches, tables and sun umbrellas and that he had seen a man drinking what appeared to be a pint of beer. He stated that Mrs Hayden had been managing the premises and when asked to provide sight of a copy of the licence summary, which should be displayed at the premises, Mrs Hayden had been unable to do so. Mr Hughes advised her to move the benches and tables to the rear beer garden to avoid any further breaches of licence. Again, a letter was sent to Mr Watkins to inform him of the visit made to the establishment. He confirmed that when driving past the premises on 22nd June, and 2nd July, 2010, the seating area had been removed and no customers had been consuming alcohol outside the premises.

On 2nd November, 2010, Mr Hughes indicated that he had again visited the premises following a complaint received, concerning loud music from entertainment. On arrival, he had noticed that a bench had been placed on the side of the car park and a small fence had been erected to create a small seating area. He stated that during a conversation, Mr Watkins indicated that he wished to make the small area a smoking shelter.

On 5th November, 2010, as a result of concerns from local residents over forthcoming entertainments advertised, including a bonfire, Mr Hughes, together with Mr A Allman, Environmental Health Officer, visited the premises. It was noted that a copy of the licence summary was displayed at the premises, however, a page had been missing from the licence. Mr Hughes reported that as a bonfire had been planned for that weekend, a lengthy discussion had taken place with Mr Watkins in relation to the conditions of the premises licence and following the return to his office, Mr Hughes confirmed that he had contacted Mr Watkins by telephone clarifying the exact wording of condition 3. A letter outlining the discussion that had taken place was then sent to Mr Watkins, together with a copy of the missing page of his licence.

Mr Hughes then re-iterated the course of events that had taken place in relation to the visit he made to the Painters Arms on 27th May, 2011, together with PC D Smith, detailed above. He stated that he attended the premises the following week to discuss the activities witnessed on that date and Mr Watkins had been given a caution.

Ms Lawrence then presented her case, and in doing so emphasised that she had been unable to sleep, worrying in the middle of the week as to what would happen on the weekend and having to barricade herself in her home and indicated that she and other residents had received nasty comments from staff at the premises. She also stated that although Mr Watkins had visited her home and provided her with his contact number for her to use if she had any concerns, no action had been taken to manage the loud noise created during entertainment.

In responding to a question from a Member, Ms Lawrence confirmed that she had resided at her property for ten years.

In responding to a question from Mr Pearce, representative for Mr Watkins, Mr Round, Community Safety and Witnessing Officer outlined the procedure that he followed during and following a visit to an establishment as a result of a complaint being received.

In responding to questions from Mr Pearce in relation to the incident on 11th January, 2011, Mr Round confirmed that he had been parked approximately fifteen metres away from the premises and that music could only be heard with the car window open.

In responding to a final question, Mr Round confirmed that during the visit made to Ms Lawrence's property on 5th March, 2011 at 22:05 hours, bass music from the Painters Arms was just audible from inside the property and confirmed that at the level the music had been heard, it had not been considered to be a statutory noise issue.

In referring to the complaint log sheets maintained by Environmental Health, Mr Pearce referred to a complaint that had been received from Ms Lawrence alleging that she had been woken up at 04.30 hours on 30th April, 2011 by a couple having sexual intercourse in the seating area of the premises and people shouting until approximately 06.30 hours. He circulated photographs of the outside of the premises and enquired how Ms Lawrence would have witnessed that incident from her premises. In responding, Ms Lawrence indicated that the couple had been positioned in the corner of the car park and that the area was clearly visible from her property. In responding to a further question as to why she had not reported the incident to the Police, Ms Lawrence stated that she did not think it was her duty to report the incident, which had taken place on someone else's property.

Mr Pearce then referred to Ms Lawrence's letter to the Directorate of the Urban Environment dated 7th February 2010 complaining about the level of noise generated from the Painters Arms and that young people had been consuming alcohol in the street at the front of the premises and again queried how she could have witnessed the incident from her property. In responding, Ms Lawrence stated that she had been disturbed by loud noises and had left her property and walked round to the front of the Painters Arms and observed young people consuming alcohol outside.

Mr Pearce then referred to the incident that had taken place on 4th February, 2011. Ms Lawrence had allegedly tried to contact Mr Woollam on two occasions unsuccessfully, in relation to loud music emanating from the premises as a result of a karaoke that had been taking place. Ms Lawrence stated that she had seen a person in an upstairs room of the premises and had assumed it was Mr Woollam.

Reference was made by Mr Pearce to an issue concerning sound proofing which, on evidence in this regard being requested by Ms Nellany, the Chairman determined that it was not relevant to the case and the comments of Mr Pearce were not therefore accepted.

At 12:30 hours, Mr Round, Community Safety and Witnessing Officer withdrew from the meeting.

Mr Pearce then presented the case on behalf of Mr Woollam and Mr Watkins and in doing so referred to the guidance issued under Section 182 of the Licensing Act 2003, Section 11.23. He quoted “the role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted”. He indicated that the representations received had only been allegations and had not been dealt with by the Court and requested that the Sub-Committee ignore the alleged breaches of licence. Mr Pearce also referred to Sections 2.32 to 2.39 of the guidance issued under Section 182 of the Licensing Act 2003 which related to public nuisance and again quoted “the Act required licensing authorities (following receipt of relevant representations) and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it”. He asked the Sub-Committee to consider comments made in Mr Round’s evidence which outlined that only low levels or no noise could be heard from inside Ms Lawrence’s property and also that on dates on which discos and karaoke’s had taken place, the Painters Arms had been covered, in the main, by Temporary Event Notices. In concluding, Mr Pearce indicated that no discos or karaoke would now be taking place at the premises and confirmed that music now being played at the premises was from a juke-box only.

Following Mr Pearce’s representation, it was confirmed that the Painters Arms had been covered by Temporary Event Notices on 17th and 18th December, 2010, 24th and 25th December, 2010, 31st December, 2010 and 1st January, 2011. In responding, Mr Pearce acknowledged that not all complaints relating to loud music being played after the permitted hours had been covered by a Temporary Event Notice.

Reference was then made to the skylight at the top of the premises and it was acknowledged that sound proofing was necessary.

Ms Nellany then referred to the sound limiting device currently fitted at the premises and stated that upon inspection, Environmental Officers could not confirm whether the device was used because staff had been unable to operate it. In responding, Mr Watkins confirmed that he had contacted an Environmental Health Officer in November 2010 and twice in March 2011 in relation to the sound limiting device but had been told that the matter needed to be referred to another department.

Mr Watkins then informed the Sub-Committee that since the smoking ban came into force in 2007, the business had suffered considerably. The entertainment offered by the Painters Arms had been music from a jukebox, which had not attracted much interest. He stated that it had proved very difficult to stop customers from consuming alcohol outside the premises and queried whether condition 3 of the premises licence, “no consumption of alcohol to take place at the front or side of the premises”, could be withdrawn. In responding, the Chairman confirmed that the Sub-Committee could only consider the review of the premises licence and that any variations of licence needed to be applied for separately.

The meeting then adjourned at 12.45 hours and recommenced at 12.50 hours.

In responding to a question from Ms Nellany in relation to the sound limiting device, Mr Watkins indicated that the device was working but only linked to the equipment used by the DJ and confirmed that the noise limiter would engage once music reached above ninety decibels. Ms Nellany expressed concern that the device had never been triggered, which would seem to suggest that the sound limiting device did not work.

Ms Nellany then referred to the complaints received in relation to loud music being played after the permitted hours of licence and stated that Temporary Event Notices had not covered the premises on 12th December, 2010, 11th January, and 3rd February, 2011.

A question was then raised in relation to what action had been taken following the numerous letters that had been sent to Mr Watkins in relation to the complaints received. In responding, Mr Watkins indicated that meetings had taken place with Mr Woollam in order to find solutions to alleviate the problems occurring, signs had been erected asking customers to leave the premises quietly and doors and windows had been kept closed.

In referring to the representations made by Mr Pearce above, Ms Nellany queried whether Mr Watkins would agree to include a condition to the premises licence to exclude all recorded music at the premises. In responding, Mr Watkins reported that if he agreed to the condition, the use of a TV would be the only licensable activity permitted at the premises and stated that he would not agree to the suggested condition.

In responding to a question from PC Smith, Mr Watkins confirmed that he was in attendance at the premises during the daytime, but not very often during the evening.

In responding to a question in relation to customers consuming alcohol outside the premises, Mr Watkins stated that, in future, he would ensure that the conditions of the premises licence would be adhered to and confirmed that signage had now been erected to make customers aware that consuming alcoholic beverages outside the premises was prohibited.

Reference was made to the summary of licence and Mr Watkins confirmed that a copy was now displayed clearly at the premises.

Reference was then made to Ms Lawrence's written evidence in which it was made clear that Mr Pearce did not accept the accuracy of various pieces of her statement, with particular mention to the incident she had witnessed on the car park on 30th April, 2011.

In summing up, Ms Nellany requested that all information submitted and the comments made at the meeting be considered.

In summing up, Mr Pearce reiterated comments previously made.

Following comments from all parties, the Legal Advisor stated that sufficient evidence had not been submitted to prove that the complaints that had been received related to a statutory noise issue and indicated that the Sub-Committee would determine the application made on the information submitted and comments made at the meeting by all parties.

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

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

RESOLVED

That the premises licence in respect of the Painters Arms, Avenue Road, Coseley, be suspended for a period of three months.

REASON FOR DECISION

This is an application for a review of the premises licence for the Painters Arms, brought by the Food and Occupational Safety Manager of Dudley MBC.

The Sub-Committee has heard evidence from the applicant, representations from local residents, the Police and a Council Licensing Enforcement Officer and evidence on behalf of the Painters Arms.

The Sub-Committee accepts the evidence, particularly that of PC Smith, that conditions of licence have been breached specifically in relation to the playing of recorded music beyond 11.00 hours and the taking of alcohol outside the premises for consumption, as recently as June and July 2011. This is in spite of lengthy and considerable correspondence with Environmental Health and Police over many months. The Sub-Committee also finds that the premises licence was not always displayed appropriately and that bar staff were not aware of its contents or whereabouts at all times.

The Sub-Committee accepts the complaints from local people as being valid, in so far as they corroborate the breach of licence conditions.

The Sub-Committee therefore has decided to suspend the premises licence for a period of three months.

Before the premises reopens, the noise limiter already fitted to the premises must be linked to any juke-box and must be calibrated in accordance with the Council's Department of Environmental Health guidance.

The Sub-Committee also recommends that consideration be given to either double-glazing or secondary units wherever appropriate, including skylights, to be advised on by Environmental Health.

The Sub-Committee notes that Mr Watkins will no longer use the premises for discos or karaoke. This may well alleviate many of the problems associated with the premises.

The following conditions, already attached the premises licence, should also be adhered to:-

- (1) All regulated entertainments, recorded music only 10.00 hours – 23.00 hours Monday – Sunday.
- (2) No live music to be held on the premises.
- (3) No consumption of alcohol to take place at the front or side of the premises.
- (4) All doors and windows to the front and side of the premises shall be kept closed during regulated entertainment, save for access and egress.
- (5) Indoor sporting events to be permitted on the premises.
- (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 ball games, no sounding of horns and to leave the car park quietly.
- (8) Angle of deflection of external lighting to be reviewed to ensure coverage only of footway to the front of the premises and no consequent nuisance to local residents.

The meeting ended at 1.50pm.

CHAIRMAN

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