

LICENSING SUB-COMMITTEE 1

Tuesday, 10th April 2007 at 10.00am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Tomkinson (Chairman)
Councillors Ms Craigie and Mottram

Officers

Assistant Director Legal and Democratic Services (Legal Advisor) and
Mrs J Rees (Directorate of Law and Property)

16 **APOLOGIES FOR ABSENCE**

Apologies for absence from the meeting were submitted on behalf of
Councillors Mrs Ameson and Ryder.

17 **APPOINTMENT OF SUBSTITUTE MEMBERS**

It was reported that Councillors Mottram and Ms Craigie had been
appointed as substitute members for Councillors Mrs Ameson and Ryder
respectively 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 in respect of any matter to be considered at this meeting.

19 **MINUTES**

RESOLVED

That the Minutes of the Meeting of the Sub-Committee held on
27th February, 2007 be approved as a correct record and signed.

20 **APPLICATION FOR A PREMISES LICENCE, 24 PRIORY ROAD, DUDLEY**

A report of the Director of Law and Property was submitted on an
application received from Dean and Co Solicitors, on behalf of Mrs T Fox
for a premises licence in respect of 24 Priory Road, Dudley.

The applicant, Mrs T Fox and her husband were in attendance at the meeting, together with Mr Dean, solicitor acting for Mrs Fox.

Mr and Mrs Rich, and Mrs Kelano, objectors to the application, were in attendance, together with Mrs Round, a local resident who was present only as an observer. No other objectors attended.

Following introductions by the Chairman the procedure to be followed was explained. Mr Dean, solicitor for the applicant, questioned whether, according to specific guidance in respect of the Liquor Licensing Act 2006 relating to relevant representations, the objectors present could be considered relevant representations, as he considered they lived in the proximity of the premises rather than the vicinity.

Following perusal of the relevant paragraphs within the Liquor Licensing Act, and clarification as to the addresses of the objectors and the distance from the premises, the Legal Advisor stated that, in previous cases heard by the Local Authority, members of the public who lived half a mile from premises, were regarded as “living in the vicinity” and accordingly could make representations. In this case the objectors live considerably closer and therefore the Sub-Committee was entitled to hear their representations.

Mrs J Elliott, Licensing Officer, then presented the report on behalf of the Council. She confirmed that no objections to the licensed premises application had been received from Environmental Health or the Police. There had been written objections from local residents, including those from people present.

In objecting to the application, the objectors present raised the following concerns:

- (i) There were already three off-license premises within 400 yards of each other.
- (ii) The premises were on the edge of an area which had recently been declared as an area where consumption of alcohol had been banned, on account of considerable acts of anti social behaviour.
- (iii) There was already considerable concerns regarding anti social behaviour in and around the Priory Park area, three quarters of which was drink related.
- (iv) There were concerns as to how children entering the shop were to be controlled, particularly as numerous school children visited the shop prior to attending school, and no control appeared to be exercised over them.
- (v) Mr Fox had ceased delivery of newspapers to some of the objectors and had banned them from using his shop, following their opposition to the application.

- (vi) One of the objectors submitted a newspaper cutting in which it was reported that her late father had been banned from visiting the shop for shopping.
- (vii) A number of other elderly residents had also been banned from shopping in their only local shop, due to their opposition to the application.
- (viii) Residents referred to a petition containing over 158 signatures objecting to the application. The signatories did not wish their names and/or addresses to be made known to Mr Fox for fear of reprisal. The Legal Advisor advised that the Sub-Committee could not take the petition into consideration, as the information contained therein was not available to all parties.
- (ix) Residents were concerned that a "Respect Award", which had been recently awarded to the Friends of Priory Park could be at risk, should the application be granted, on account of resulting increased acts of anti social behaviour in the area.
- (x) Residents believed that the community in the vicinity of the premises had a right to be protected by the law and did not want alcohol to be sold in what was seen as their local shop.
- (xi) Objectors suggested that the layout of the shop would need considerable alterations to enable the sale of alcohol to take place.

All of the objectors stated that there was nothing personal against the applicants, but rather concern that alcohol would be sold to under age drinkers which in turn would lead to an increase in anti social behaviour and neighbour nuisance.

In response to questions, objectors agreed that alcohol purchased by persons causing anti social behaviour in the area could be purchased from other sources outside of the vicinity and brought into the area. However, they believed the sale of alcohol would encourage more acts of anti social behaviour.

In response to allegations that cigarettes had been sold to children, the Legal Advisor advised that this comment could not be considered by the Sub-Committee, as supporting evidence had not been produced.

Also, consideration could not be given to what was reportedly happening in other establishments.

Mr Dean then presented the case on behalf of the applicant. In his presentation he addressed a number of issues raised by the objectors in that he:

- (i) confirmed that neither cigarettes nor alcohol would be sold direct to under age persons. They would also not be sold if staff believed they would be passed on to under aged persons.

- (ii) that cigarettes had not been sold to under age persons in the past.
- (iii) that if a license were granted, all staff employed would be aware of and abide by legislation. It was anticipated that Mrs Fox would be the licensed premises and personal license holder, although it was envisaged that a further personal license holder would be appointed.
- (iv) confirmed that windows had been broken in a recent burglary and on another occasion when roller shutters had been installed. All had now been repaired.
- (v) suggested that the information contained within the application and the attached operating schedule was adequate to ensure that the sale of alcohol would be carried out in a legal and appropriate manner.
- (vi) acknowledged that there had been incidents of anti social behaviour in the area, but did not believe there was any evidence to suggest where the alcohol in question had been purchased.

In response to further issues raised by the objectors, Mr Dean commented that :

- (i) Alcohol could be purchased from other off licenses and stores in the area and outside of the area.
- (ii) The issue of “need” for another off license was a matter for the Development Control Committee and not the Licensing Sub-Committee. The Legal Advisor confirmed that this was the case.
- (iii) His Client did not allow youths to congregate in close proximity to the shop.

In response to questions from the Chairman, Mr Dean confirmed

- (i) that there was a flat above the premises which was independent of the shop and access was entirely separate.
- (ii) that the premises were adequately secure.
- (iii) that suitable measures would be taken by all staff to ensure that alcohol was not sold to children, such as signs stating this fact and requests for age identification.
- (iv) there were no plans to store large amounts of alcohol on the premises.

In response to whether it had been prudent to stop delivery of papers to people who had objected to the application, Mr Dean said that the decision of his client would have been a personal and commercial decision, which had not been meant to antagonise residents. The legal advisor agreed and advised that the matter could not be considered by the Committee.

A copy of the plans of the shop were displayed and Mr Dean outlined the proposed amendments to the store, including where alcohol was to be situated and the location of proposed security shutters. He also confirmed that CCTV cameras were already installed on the inside of the premises and would be installed outside.

In summing up Mr Dean questioned whether residents would have objected to the application if there had not been a history of anti social behaviour at Priory Park. He believed that the operating schedule attached as an Appendix to the report was self explanatory and set out how the shop would operate, should a license to granted.

Following the summing up of cases, the respective parties then withdrew so that the Sub-Committee could come to a decision on the application.

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

RESOLVED

That the application for a premises licence in respect of 24 Priory Road, Dudley, be refused.

Reasons for Decision

These premises are situated in an area that is plagued by alcohol related anti social behaviour involving young people. For this reason there is an alcohol banning order in place locally. In addition, the Duncan Edwards Public House, situated opposite the premises has been subject to repeated acts of vandalism and arson attacks.

Given these significant alcohol related problems, we feel that there is a major risk that another off licence facility is likely to lead to alcohol finding its way to young people through its purchase by adults of whom the applicant will have little control.

The applicant was advised that she had a right of appeal.

That pursuant to Council Procedure 13 c) the order of business be amended to enable Agenda Item No.7 - Application for Amusement with Prizes Machines Permit at Abraham Darby, Merry Hill Centre, Brierley Hill, to be considered as the next item of business.

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APPLICATION FOR AN AMUSEMENTS WITH PRIZES MACHINES PERMIT FOR FOUR MACHINES IN RESPECT OF THE ABRAHAM DARBY, MERRY HILL CENTRE, BRIERLEY HILL

A report of the Director of Law and Property was submitted on an application by JD Wetherspoon Limited for an amusements with prize machines permit for four machines at The Abraham Darby, Merry Hill Centre, Brierley Hill.

Mr Bullock, Duty Manager of The Abraham Darby, Merry Hill Centre, Brierley Hill, West Midlands was in attendance.

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

Mrs J Elliott, Licensing Officer, then presented the report on behalf of the Council. The public house already had a permit for three machines.

In presenting the case on behalf of JD Wetherspoons Limited, Mr Bullock submitted a plan of the premises, and indicated the exact location of the existing three machines together with the proposed location for the new machine, should a permit be granted.

In response to questions from the Committee, Mr Bullock advised that there were currently three amusement machines and one quiz machine on the premises, for which a permit had been granted in 2006. The current request was for a further amusement machine.

Mr Bullock confirmed that the machines already on the premises were in clear view of staff in attendance at the bar, which made facilitated supervision of the machines so as to ensure they were not used by under age children. Mr Bullock confirmed that staff tried to ensure that only over 18's used the amusement machines. Anyone could use the quiz machine, as a certain amount of skill was required and a licence was not needed for this type of machine.

RESOLVED

That approval be given to the grant of an amusements with prizes machine permit for four machines in respect of The Abraham Darby, Merry Hill Centre, Brierley Hill.

APPLICATION FOR A PREMISES LICENCE – HASBURY
CONSERVATIVE AND UNIONIST CLUB, 91 BLACKBERRY LANE,
HALESOWEN

A report of the Director of Law and Property was submitted on an application received from Sanders and Co, Solicitors on behalf of Hasbury Conservative and Unionist Club for a premises licence in respect of the Club at Blackberry Lane, Halesowen.

Mr R Billingham Chairman, Mrs S Wall, Secretary and Mr G Evans, Treasurer of the Hasbury Conservative and Unionist Club were in attendance at the meeting.

Mr Billingham declared an interest in the application, in that as well as being Chairman of the Club he was also the Solicitor acting on behalf of the Club.

Mr J Murray, Mr S Derham and Mrs B Roberts, objectors, were also in attendance.

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

The Legal Advisor advised that should the Club be granted a Premises Licence it could not retain its Club status and open to guests only.

Mrs J Elliott, Licensing Officer, then presented the report on behalf of the Council, and advised that written letters of objection had been circulated to Members of the Committee.

The objectors present detailed their concerns, relating to acts of anti social behaviour, noise nuisance from music during late night functions, mainly on Friday and Saturday evenings, other noise nuisance from people waiting for taxis, taxis sounding their horns and children running noisily up and down the street, whilst their parents were in the club. Concerns were also expressed that broken bottles and glass had been found in residents' driveways.

Telephoned complaints to the club had also remained unanswered, letters written had been ignored and there appeared to be no co-operation from the Club to address the concerns of local residents.

One of the objectors expressed concern at the attitude of a member of staff towards his wife, who in night attire, had gone out to ask children to be quiet late one evening. The children had apologised, but the staff member had made derogatory remarks regarding her being in night attire.

The Treasurer of the Club apologised for any distress caused by the comments made by a member of staff. He undertook to ensure this did not happen again. He advised that it was difficult to police the outside of the Club, but that children should not be running around outside.

Concerns were expressed that if the Club was open to a wider public, the noise nuisance and anti social behaviour would increase.

One of the objectors commented that she felt vulnerable as she lived alone. People sat on the wall between her property and the Club whilst waiting for taxis and threw rubbish into her garden. In addressing this comment, the Club Secretary advised that recently the Club had paid for the rebuilding of the boundary wall, which had previously been taken down due to its poor state of repair. She also commented that noise was also caused by other residents returning home from other venues.

Mr Billingham then presented the case on behalf of the Club. He circulated photographs indicating the ambiance of the club. He advised that it was not the intention to open the Club to members of the public other than for private functions on Friday and Saturday evenings. The current Club Premises licence limited the number of private functions which could take place, and this in turn had a financial impact on the Club. The Club would only open in the early mornings for special sporting events which were televised in the early hours.

In response to a comment from the Chairman that there did not appear to be an area designated for children, Mr Billingham advised that the club was a family club and as such the children should stay with their parents during visits to the Club.

In response to a suggestion from the Licensing Officer that a noise limiter machine be installed, in consultation with the Environmental Health Authority, Mr Billingham indicated that the club would be happy to discuss this matter.

In summing up, Mr Billingham undertook to ensure that the car park of the Club was more vigilantly policed in future. He was in agreement for the departure times of the Worcester Suite upstairs to be different to that of the Club room downstairs to lessen noise nuisance. He was also willing to ensure that adequate signage was erected requesting patrons to leave quietly.

Following the summing up of cases, the respective parties then withdrew so that the Sub-Committee could come to a decision on the application.

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

RESOLVED

That the application for a premises licence in respect of Hasbury Conservative and Unionist Club, 91 Blackberry Lane, Halesowen, be granted as follows:-

1. Sale of alcohol - Worcestershire Suite
07.00 hours to 23.00 hours

Regulated entertainment - Worcestershire Suite
07.00 hours to 12 midnight

Seven days per week

2. Sale of alcohol on ground floor
07.00 hours to 00.30 hours

regulated entertainment on the ground floor
07.00 hours to 01.00 hours
Seven days per week and

Sale of alcohol to 01.00 and
regulated entertainment to 01.30 on Bank holidays and Christmas
and New Year period only.

Conditions

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

1. All windows shall be secured during regulated entertainments.
2. Signs in the car park to state: no sounding of horns and to leave the car park quietly.
3. A noise limiter for both the ground floor and first floor of the premises to be set by Environmental Health in consultation with local residents (Mrs Roberts, Mr Murray or Mr. Derham)
4. Car park to be policed by the steward and staff during functions where there is private entertainment held on the premises.

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 local residents, but we believe that their concerns can be met through the licensing conditions and appropriate enforcement.

The meeting ended at 1:40 pm

CHAIRMAN