

LICENSING SUB-COMMITTEE 3

Tuesday, 11th October, 2011 at 10.00 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Ryder (Chairman)
Councillors Barlow and Taylor

Officers

Mr T Holder (Legal Advisor), Mrs J Elliott (Licensing Officer) and Miss H Shepherd (Directorate of Corporate Resources).

6 APOLOGIES FOR ABSENCE

Apologies for absence from the meeting were submitted on behalf of Councillors Mrs Dunn and Mottram.

7 APPOINTMENT OF SUBSTITUTE MEMBERS

It was reported that Councillor Taylor had been appointed as a substitute member for Councillor Mrs Dunn and that Councillor Ryder had been appointed as a substitute member for Councillor Mottram, for this meeting only.

8 DECLARATIONS OF INTEREST

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

9 MINUTES

RESOLVED

That the minutes of the meeting held on 2nd August, 2011 be approved as a correct record and signed.

10 APPLICATION FOR THE RENEWAL AND VARIATION OF THE CONSENT TO ENGAGE IN STREET TRADING – HALESOWEN STREET MARKET, HALESOWEN TOWN CENTRE – LSD PROMOTIONS LTD

A report of the Director of Corporate Resources was submitted on an application received from Mr D McGillicuddy on behalf of LSD Promotions Ltd for the renewal and variation of the consent to engage in street trading in Halesowen Town Centre, issued to the Halesowen Street Market.

Mr McGillicuddy of LSD Promotions Ltd was in attendance at the meeting.

Also in attendance and objecting to the application were Councillor K Turner, Mr S Perry (Town Centre Manager, Directorate of the Urban Environment), Mr S Fitzpatrick (Chamber of Trade), Ms E O'Connor (Vale Retail) and Mr M Dancer (Dancers).

Following introductions, the Chairman outlined the procedure to be followed. In doing so, the Chairman stated that although no formal objection had been received by the Sub-Committee from Councillor K Turner, he would be allowed to speak on the matter at the appropriate time.

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

Mr Perry reported on the comments his colleague had made which had been circulated to Members prior to the meeting, reiterating that they had no specific objection to the concept of the application, but concerns were raised with regards to the number of stalls that were intended and the effect a market would have on the retailers within the Town Centre especially during the current economic climate.

He also stated that if the market was to stand on a weekly basis, this would have a detrimental effect on the events that were organised to take place in the Town Centre, therefore the current format of a market on a fortnightly basis would be preferred.

Mr Fitzpatrick then presented the objections on behalf of the objectors present at the meeting and in doing so stated that they felt strongly against a weekly market being held, taking trade from retailers within the town that was already experiencing difficulties during the current economic climate. He stated that the safety aspects of vehicles driving on to a small pedestrian area, morning and evening, to load and unload should be looked into. He also stated that business was welcomed, but not to the detriment of the Town and that no organised events would be able to take place on a Saturday with a Market standing.

Ms O'Connor then made her representation and informed the Sub-Committee that she had concerns over the viability of existing businesses and that having a regular market would change the characteristics of the town. She stated that the Farmers Market was unique and that a general market was not what was wanted.

Councillor K Turner then presented his objections to the application and in doing so informed the Sub-Committee that the Victorian Street Fair which takes place in the Halesowen Town Centre worked in conjunction with the Farmers Market, but if the market were to extend this could cause difficulties in the future. He stated that Halesowen was unique and did not need a regular weekly market. He stated that shoppers were encouraged into the town by having an occasional Farmers Market selling a variety of goods.

In response to a question raised by the Legal Advisor, Mr Perry informed the Sub-Committee of future dates in which events had been arranged to take place in the Town Centre.

Mr McGillicuddy then presented the case on behalf of LSD Promotions Ltd and stated that the Market would work collectively with the Local Authority to alleviate any problems when events would take place within the Town Centre.

In response to comments made regarding pedestrian safety while vehicles loaded and unloaded, Mr McGillicuddy stated that Traders staggered their arrival times and that several staff would be on site managing the situation at peak times, with a Market Manager present all day.

In continuing, Mr McGillicuddy indicated that if the application was refused, could consideration be given to a consultation exercise to identify if there was a requirement for a general market in Halesowen and Stourbridge.

It was stated that the restrictions on the current Farmers Market licence were preventing new and young traders from standing due to the goods being sold not being within the remit of the conditions.

In response to a question raised, Mr McGillicuddy stated that Wyre Forest Council had requested that the Market be situated in front of empty shops in Kidderminster town and that it was clear from car parking revenue that market day was well attended.

Clarification was sought with regard to the plan provided with LSD Promotions Ltd application. It was stated that the plan provided was what was used for the Victorian Street Fair earlier this year, but did not necessarily mean that was where the stalls would be. The Sub-Committee was informed by the Licensing Officer that the application had been circulated to the Highways division as well as the Police Authority and Fire Brigade with no comments having been made.

Arising from a question, Mr McGillicuddy advised that he predicted approximately 35-40 traders to attend the general market if the application was approved.

Following a suggestion of moving the location of the proposed market to Hagley Street and Great Cornbow, Mr McGillicuddy stated that the Farmers Market had been moved previously but to no success, therefore this was not considered as an option.

In response to concerns raised in relation to the type of traders that were intending to trade, Mr McGillicuddy stated that traders would be refused stalls if there were several traders selling the same products, however healthy competition was encouraged. He also indicated that new traders would be assessed prior to them standing and would be provided with a stall on a trial basis.

Arising from a question raised by the Legal Advisor, Mr McGillicuddy confirmed that he would have no objection if the application was not approved to the full extent.

In summing up, Mr Fitzpatrick stated that the Chamber of Trade had been happy with the Farmers Market trading over the last 8-9 years, but for a general market to start trading in the current economic climate would be to the detriment of the town.

In summing up, Ms O'Connor stated that Halesowen was just keeping its head above water. The town had established its character and had worked to achieve the Halesowen in Bloom Award, with a Market running through the town the floral displays would not be appreciated.

In summing up, Councillor K Turner stated that concerns had been received from traders in the town with regard to the size of the proposed market and the effects it would have on existing traders.

In summing up Mr McGillicuddy indicated that he was happy to abide by the Sub-Committees decision, but requested that consideration be given to the lifting of the restrictions, to help the market, new traders and the town. He reiterated his comments in relation to a consultation exercise to consider what local residents wanted.

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 outlined the decision.

RESOLVED

That the application for the renewal and variation of the consent to engage in street trading in Halesowen Town Centre, issued to Halesowen Street Market be approved in the following terms with the variation indicated:-

- (1) The format will remain the same, every second, fourth and fifth Saturday of the month.
- (2) The market will still be deemed a Farmers and Craft Market.
- (3) The consent will be varied to allow an extra 10 stalls, to a maximum of 35 stalls in total, which may be of general format, but must be sympathetic to the established local trade.

- (4) The Sub-Committee will entertain a review of the variation in 6 months time if the applicant so desires.
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11 APPLICATION FOR A VARIATION OF A PREMISES LICENCE – PAINTERS ARMS, AVENUE ROAD, COSELEY

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

Mr G Watkins, the premises licence holder was in attendance at the meeting.

Also in attendance and objecting to the application was Ms D Nellany (Food and Occupational Safety, Directorate of the Urban Environment).

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

Ms Nellany presented her objections and in doing so she stated that although Mr Watkins had withdrawn all aspects of the application for variation apart from the condition that prevents customers being allowed to consume alcohol at the side of the building nearest to the car park, there was still grave concerns due to the public house being in a residential area and being the focus of residents complaints. Complaints received had been in relation to noise and the congregation of people outside the property.

Ms Nellany indicated that a fence had been erected to the side and running the full length of the property, but questioned the purpose of it as this would become populated and add to the noise that residents persistently complained about. It was stated that this type of noise issue was difficult to deal with as there was no statutory control.

Mr Watkins then presented his case and stated that he took all the comments on board, however, the restrictions on the licence had all been imposed prior to the smoking ban, which was now causing problems as customers did not like leaving their drinks unattended while leaving the premises to smoke and would therefore take alcohol outside. He stated that employees had tried to prevent this from happening, but it had, on occasions, caused confrontation.

In continuing, Mr Watkins informed the Sub-Committee that the layout of the property was being changed to prevent customers having to walk the full length of the premises to exit into the beer garden at the rear of the property and therefore the fence had been erected at the side of the property as a walk way leading down to the beer garden. He stated that the fencing needed to be a distance away from the property wall due to a cellar drop being situated there, but he had no intention of providing table and chairs in that area.

Mr Watkins stated that it was the intention to become food oriented and that new management would be taking over the premises. He welcomed any suggestions to help resolve the issues.

Arising from a question raised, Mr Watkins informed the Sub-Committee that the newly erected fence was in line with the front elevation of the property, but hoped that if customers were out of view of residents this would prevent further complaints.

In response to a question raised Mr Watkins stated that he would be transferring the Designated Premises Supervisor licence to the new manager who would actually be living on the premises.

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 all parties to return and the chairman outlined the decision.

RESOLVED

That the application for the variation of the premises licence in respect of the Painters Arms, Avenue Road, Coseley be refused.

Reasons for Decision

This is because the Sub-Committee still has concerns about the noise nuisance arising from customers congregating at the front and side of the pub.

However, the Sub-Committee understands that the premises is to be managed by a new Designated Premises Supervisor and staff, and are willing to consider this single variation in six months after the re-opening of the Painters Arms.

The meeting ended at 12.25pm.

CHAIRMAN